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The Catholic Community Foundation helps YOU help your clients make a gift to benefit a Catholic Parish, Catholic Charities, Catholic Education, Priestly Formation or a Diocesan Ministry.

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December 2016

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February 11, 2017

Music Box Supper Club

We love the Foundation!
Get ready to Rock! Join us for fabulous food, open bars, live music provided by Nitebridge, dancing, great raffle prizes and more!

Rock 12 will feature our 2017 awardee.

BETH E. MOONEY, Chairman and Chief Executive Officer of KeyCorp will be receiving the Richard W. Pogue Award for Excellence in Community Leadership and Engagement.
Volunteering á la Carte

The Justice For All (JfA) programs of the CMBA offer volunteers a true variety of opportunities to give back to their community, with such an extensive range of commitment levels and experience requirements that everyone – attorneys, judges, law students, paralegals, and other legal professionals – can find something to match their interests and availability.

For more about volunteering, please visit CleMetroBar.org/ProBono or contact Jessica Paine, Assistant Director of Community Programs, at (216) 696-3525 or jpaine@clemetrobar.org.

THE 3RS – RIGHTS • RESPONSIBILITIES • REALITIES

Volunteers provide law-related education in the high school classroom.

Each volunteer serves on a team that visits an assigned classroom in a Cleveland or East Cleveland public high school to present six lessons on the U.S. Constitution and career counseling. Curriculum and volunteer orientation are provided.

Volunteer Schedule: Sept. 2016 – April 2017 (typically one classroom visit per month)
CleMetroBar.org/3Rs

3RS+

Volunteers provide college and career counseling, tutoring, and mentoring services to 11th and 12th graders in the Cleveland and East Cleveland schools, upon request.

Volunteer Schedule: During school year, Sept. 2016 – May 2017
CleMetroBar.org/3Rs

CLEVELAND HOMELESS LEGAL ASSISTANCE PROGRAM (CHLAP)

Volunteers can provide service in two ways: (1) providing brief advice and counsel at intake sessions at homeless shelters and social service providers, or (2) providing follow-up service on legal matters needing further attention.

Volunteer Schedule: Sessions scheduled regularly throughout the year
CleMetroBar.org/CHLAP

CLEVELAND MOCK TRIAL COMPETITION & MIDDLE SCHOOL MOCK TRIAL

Volunteer attorneys and law students serve as team legal advisors to Cleveland high school and middle school students for competition before a panel of volunteer judges in the spring.

Volunteer Schedule: Coaching Feb. – May 2017; Competition in May
CleMetroBar.org/ClevelandMockTrial

OHIO MOCK TRIAL COMPETITIONS

Volunteers serve as judicial panelists for teams of high school students from public, private, and home schools across the region. Volunteers can also serve as team legal advisors.

Volunteer Schedule: Cuyahoga District Competition January 20, 2017; Cuyahoga Regional Competition February 10, 2017
CleMetroBar.org/OhioMockTrial

PRO SE DIVORCE CLINICS

Volunteers guide participants through the paperwork and process of securing a simple divorce pro se.

Volunteer Schedule: 3rd Friday monthly unless otherwise noted

REACH OUT: LEGAL ASSISTANCE FOR NONPROFITS

Reach Out seminars held quarterly feature free presentations on the law for both nonprofit leaders and volunteer attorneys, followed by brief advice sessions. Volunteers assist by presenting at clinics, participating in teams at brief advice sessions, and/or agreeing to take on further representation as needed.

CleMetroBar.org/ReachOut

 SPEAKERS BUREAU

Volunteers address groups from throughout the community on a wide variety of legal topics.

Volunteer Schedule: As needed throughout the year

VOLUNTEER LAWYERS FOR THE ARTS (VLA)

Volunteers provide pro bono assistance and advice for legal issues faced by artists, and a series of free law-related education events held in Cleveland’s many unique arts venues.

Volunteer Schedule: Committee meets monthly, other services TBD throughout the year
CleMetroBar.org/VLA

Coming Soon!

January 20, 2016
Ohio Mock Trial Cuyahoga District Competition

January 26, 2016
VLA/Bankruptcy Section joint presentation: Debtor/Creditor Law for Artists

February 10, 2016
Ohio Mock Trial Cuyahoga Regional Competition
MENTAL HEALTH & WELLNESS COMMITTEE

Chair
K. James Sullivan
Calfee, Halter & Griswold LLP
kjsullivan@calfee.com

Staff Liaison
Carrie Cravener
ccravener@clemetrobar.org

Regular Meeting
It varies. (Contact Chair for scheduled meetings at CMBA Conference Center)

What is your goal?
Among our key objectives are: (1) to remove the stigma commonly surrounding mental health concerns, which impact lawyers at alarming rates; (2) to educate the bar and law students on facts surrounding mental health concerns; and (3) to connect the legal community to available help and resources.

What can members expect?
At a macro level, an opportunity to participate in addressing the challenges of mental health issues in the legal field. At a micro level, opportunities to provide hope and a helping hand to those suffering among our ranks.

Upcoming Events
Two noteworthy efforts include: (1) The Committee is deeply involved in ongoing efforts to persuade the Ohio Supreme Court to remove certain questions on the bar exam regarding mental health issues, which the U.S. Attorney has determined violate the ADA. (2) Committee members will be visiting area law schools to meet with students about mental health issues in the legal field.

Recent Event
On November 16, the Committee hosted a CLE program with rich content on mental health and wellness issues, which was attended by approximately 50 area lawyers.

ESTATE PLANNING, PROBATE & TRUST LAW SECTION

Chair
Franklin C. Malemud
Reminger Co. LPA
Email: fnmalemud@reminger.com
(216) 430-2225

Regular Meeting
The 3rd Tuesday of each month at noon at the CMBA Conference Center.

What is your goal?
To spark interest and keep members informed in the ever-evolving subjects of Estate Planning, Probate and Trust law and related asset/tax planning and wealth transfer issues. In addition to keeping our current membership informed and educated, we are working to grow in younger lawyers an interest in estate planning, probate and trust law.

What can members expect?
In light of the regular changes in this area of the law the section provides access to very knowledgeable section members and practitioners and informative CLE programs that highlight the evolving practice area.

COURT RULES COMMITTEE

Chair
Marcel C. Duhamel
Vorys, Seymour, Sater and Pease LLP
mcduhamel@vorys.com

Staff Liaison
Carrie Cravener
ccravener@clemetrobar.org

Regular Meeting
Monthly, generally on Thursdays at noon at the CMBA Conference Center.

What is your goal?
The Committee considers potential amendments to the court rules affecting practitioners in the courts in Cuyahoga County and makes recommendations to the Board of the CMBA regarding whether the CMBA should support or propose specific rule amendments.

What can members expect?
Members can expect to participate in active discussions about the administration of justice with practitioners from diverse backgrounds and with differing perspectives.

Upcoming Event
We will be presenting an Estate Planning Hot Topics seminar in June 2017.

Recent Event
The section just co-sponsored the 43rd Annual Estate Planning Institute on October 28, which included 6.5 hours of CLE credit for topics including Fiduciary Litigation, Drafting Trusts to Enhance (or Restrict) Flexibility, Case Studies on Exercise of Trustee Discretion, Federal Law update, ESOPs as an Estate Planning Tool, Planning with the Ohio ABLE Act, FAFSA and CSS Profile in Planning for College, Handling of Prenuptial Agreements, Pre-Marital Assets and Trusts in Divorces.
Richard D. Manoloff

But the Greatest of These Is Charity

“We make a living by what we get, but we make a life by what we give.” – Winston Churchill

“An individual has not started living until he can rise above the narrow confines of his individualistic concerns to the broader concerns of all humanity.” – Rev. Dr. Martin Luther King, Jr.

Charitable giving. It is emphasized in this edition of the Bar Journal, and permeates the season. It was on display when Tribe fans purchased wedding registry items for pitcher Ryan Merritt and his fiancée, and when a fan established a wedding registry for announcer Joe Buck and the Cubs’ Kyle Schwarber, although charitable impulses might have been better directed to an eyeglasses fund for umpire Joe West. And it is baked into our DNA by the human experience.

We are inspired by acts of charity, by commitments of generosity, by stories of sacrifice for the good of others. They hit a resonance frequency deep within us because, as much as we are fundamentally on our own and concerned for our own welfare, we are also fundamentally in community with others and are concerned for theirs. As Audrey Hepburn remarked, “As you grow older, you will discover that you have two hands, one for helping yourself, the other for helping others.” If helping oneself is the “yin” of our nature, helping others is the “yang.” Charity, then, is what makes us complete.

When individuals join together in a collective activity, it is not surprising that we see our nature writ large. In government, for example, we create means and pathways for self-reliance and self-determination, and we also recognize and codify our commitment to each other. President Obama expounded on this theme: “[A] freedom which only asks what’s in it for me, a freedom without commitment to others, a freedom without love or charity or duty or patriotism, is unworthy of our founding ideals, and those who died in their defense.”

Other social institutions and organizations reflect the same intertwined dualism. Our Bar Association is a case in point. A law-related organization of more than 5,500 individuals, we are devoted to the education, practice-building and ultimate success of our members in the legal profession. And we are also devoted to using our experience and expertise to help others, and to extend justice throughout our beloved Cleveland. To steal my own quote that has evidently appeared on our website: “We are here to maximize the breadth and depth of your experience in one of the noblest of professions — to your own benefit and to the benefit of all.”

The Bar Association provides multifarious opportunities for us as legal professionals to apply our skills and abilities to maximum charitable effect. Our well-established “Justice For All” programs run the gamut from delivering pro bono legal services to serving our youth through educational, experiential and mentoring efforts. Our well-regarded and well-run Bar Foundation offers numerous fun and significant ways to plug in to the financial support of such programs. And we are even now planting seeds that should grow into yet more meaningful opportunities to “give back.”

As we round out the year and look ahead to the next, I encourage us all to resolve to become or remain engaged in at least one outward-looking activity of the Bar. It need not be “huge.” As Saint Teresa of Calcutta (formerly Mother Teresa from my grandparents’ hometown of Skopje, in Macedonia) said, “If you can’t feed a hundred people, then feed just one.” Habitual volunteering, even micro-volunteering, can help us to sync up with an essential element of our nature — to be charitable. Indeed, it was former Cav, Shaquille O’Neal, channeling Aristotle, who said, “We are what we repeatedly do.” Of course, Shaq also reportedly said, “If you go 72–11 and don’t win [the championship], it doesn’t mean anything. Actually it does. It means you’ve cheated and played an extra regular-season game.”

In 2017, may we all self-actualize as complete legal professionals, in harmony with our existential selves. May the Golden State Warriors go down hard. May the Tribe bounce back to win it all. And may the Browns contend... That would be charity indeed.

Rick Manoloff, President of the Cleveland Metropolitan Bar Association and former President of the Cleveland Metropolitan Bar Foundation, studied religion at Princeton and Harvard and helped create a welfare-to-work program in New York City during the Ed Koch administration before going to law school at Yale. He likes to think he is a bigger Cleveland sports fan than his sportswriter-brother, Dennis. He has been a CMBA member since 1993. He can be reached at (216) 479-8331 or rick.manoloff@squireph.com.
THE 3RS
(RIGHTS • RESPONSIBILITIES • REALITIES)
NEEDS YOU!

There’s still time to volunteer for this ground-breaking program — sign up today! By volunteering, you’re helping students understand the rule of law and their roles as citizens, but more importantly you’re making a connection that will positively impact their futures.

Help us reach our goal of 3Rs lessons in every 11th grade U.S. Government classroom in Cleveland and East Cleveland! You can form a team with your friends and colleagues, or join as an individual. The following schools in Cleveland and East Cleveland still need 3Rs teams:

- Glenville
- Jane Addams
- Shaw
- Thomas Jefferson International Newcomers Academy

Missed the fall orientations? No problem! We have everything you need to get caught up to speed at CleMetroBar.org/3Rs.

- Video for volunteer training
- Instructors Guide
- Program Overview

Thank you to all volunteers, law firms, courts, corporate counsel, who have already committed to make a difference this year!

For more information and to sign up, please visit CleMetroBar.org/3Rs or contact Jessica Paine at jpaine@clemetrobar.org.

The CMBA & Akron Bar are taking the show on the road!
Spend a long weekend in sunny Florida, and pick up 10 hours of CLE in between visits to the beach and our networking events.

Discounted Resort Rates Available!
http://goo.gl/Vw3VDs

The SUNSHINE STATE

Save the Date
January 26–27, 2017
MARRIOTT AT SINGER ISLAND IN FLORIDA
Ariel M. Lipsky
Firm/Company: Keis George LLP
Title: Associate Attorney
CMBA Join Date: 2012
Undergrad: Purdue University
Law School: Boston University

Tell us about your pet.
I have an 8-pound Schnoodle named Toby that I rescued this summer. He is so cute he almost doesn’t look real! People tell me he looks like a tiny lamb, koala, or even an ewok. The dog pictured with me isn’t Toby. His name is Pooh and he was a beloved member of my family growing up.

What advice would you give to a law student?
My advice would be not to get caught up in competing with other students, and focus on challenging yourself to do the best you can. If you trust your own abilities, you’ll always succeed. Wondering what the person next to you is doing will only distract you.

What neighborhood do you live?
I live in the Warehouse District. I love the energy downtown, especially during the playoff and championship runs the past few summers. It’s also a treat to be walking distance to so many great restaurants and bars.

One fun fact about you!
During my first year of law school, my brother, sister, and I each donated 12 inches of hair to Locks of Love. My section almost didn’t recognize me after!

Bill Novak
Firm/Company: Novak LLP
Title: Managing Partner
CMBA Join Date: 1973
Undergrad: Boston University
Law School: Boston University

If you were not practicing law what would you be doing?
I would be training racehorses in Kentucky and enjoying the races every afternoon.

What was the most important contribution you made as a lawyer?
Serving three, three-year terms on the Ohio Supreme Court’s Board of Professional Conduct.

What would really surprise people about you?
I have been around horses almost my entire life. I love being outdoors with them and enjoying their company.

What would you like to do when you stop practicing law?
I want to work at one of the vineyards in Napa.

Tell us about your recent life changing experiences.
My wife passed away five years ago after 41 years of marriage. I never thought that I would find another person that would make me happy. I am very fortunate that I have found someone else to share my life with. You just never know what is around the corner.

Rita Klein
Company: Cleveland Metropolitan Bar Association
Title: Membership, Marketing & PR Director
Start Date: September 2009
College: Ohio University

If you were not in your current profession, what would your profession be?
Thanks to some recent house projects and quotes on needed work, I’m thinking there may be a good option to reconsider starting a female-owned contracting company for residential work like electrical or construction. I like to tinker in these trades now, but it may be a consideration if I ever change professions.

What do you love about your job?
The team I work with that I enjoy most about the job. They are my family away from home and I enjoy how we fuel each other through laughter; fresh ideas and a hefty dose of sarcasm.

Tell us why you love CLE!
I moved here in 2000 and have been amazed at this city/region’s transformation. As it was so often quoted, “What’s not to like?” No matter what your interests may be, you can find it in Greater Cleveland. It’s a great place to cheer on the home teams, raise a family, enjoy the outdoors, play on our Great Lake and more. Plus, even when friends/family aren’t in CLE, it’s comforting to know we give them so many reasons to come visit “home.”

Tell us about your family.
My family means the world to me. My husband Aaron and I met as Ohio University Bobcats. He now competes with me for the longest spousal commute by working for the City of Sandusky. I’m so proud of him, both professionally and as a great dad to our two fantastic daughters, Kylie and Samantha. At ages 10 and 8, the girls keep us busy and make us laugh every day, I love their perspective on life and enjoy getting to see things anew through their eyes.

What do you do for fun?
Traveling is something I really enjoy and need to do more often. It is such a great way to break up the routine, whether it’s to a regional hot spot or going to foreign lands, the memories I’ve made are invaluable. If I can’t travel, I enjoy being outdoors, playing sports (especially ultimate Frisbee), visiting with friends or cozying up with the fam for movie night.
Let the CMBA Conference Center host your next event.

The Center of it All

Located in One Cleveland Center
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Rockwell

E. 9th Street
St. Clair
Parking
Rockwell

The conference center at the Cleveland Metropolitan Bar Association offers excellent options to meet your needs and save you money for groups of three to 300+.

15,000+ Square Feet
AV Included
300+ Seat Auditorium
Reception Areas
Rooms of Varying Sizes
Classrooms
Attached Parking
Video Conferencing
Free Wi-Fi
Catering Available

The Conference Center at the Cleveland Metropolitan Bar Association offers excellent options to meet your needs and save you money for groups of three to 300+.

CleMetroBar.org/ConferenceCenter

Come visit us in the heart of downtown for a personal tour, and learn about our stress-free, all-inclusive approach.

(216) 539-3711
Rebecca Ruppert McMahon

Show Me the WIIFM

early in my career as a community volunteer, I landed on the development committee for a Cleveland nonprofit where we focused on ways to get people to be engaged — through contribution of time, talent and money. During one particular meeting, I remember someone using a word that sounded made up to me: "WIIFM." It popped out in phrases like, "It's all about the WIIFM" and "We need to keep the WIIFM up front." Everyone nodded vigorously in agreement each time the word surfaced. Toward the end of the meeting when I failed to figure the word out on my own, I finally asked for a definition.

What's In It For Me.

The word hasn't left my vocabulary since then. It's the key to just about everything, profit or nonprofit alike. People often need to see the personal "why" before saying yes to an ask — from purchasing products and services, to taking jobs and accepting volunteer opportunities. And it's not necessarily a selfish act as some might perceive ... more of a, "tell me how this will make my life better in some way."

We've been talking a lot about WIIFMs at the CMBA lately, particularly in the context of our first of its kind inclusion initiative, Cleveland Legal Inclusion 2020.

We — Majeed Makhlouf, our VP of Diversity & Inclusion and I — have reported out regularly over the past year about:

• the D&I Committee's two phase survey initiative from which we collected a mountain of demographic information and more about our Cleveland legal community;
• Our analysis of the survey data which showed us that progress has been slow, but opportunity abounds; and
• the 27 organizations that signed a pledge in May to engage in a collective effort to find a stronger, smarter approach to diversifying Cleveland's legal work force and leadership, while also building a more inclusive legal community.

In mid October, during a meeting that drew representatives from more than 50 organizations, we debuted the product of those collective efforts: Cleveland Legal Inclusion 2020. Drawing upon best practices from around the country, and the very specific goals for our own community, the 27 organizations that heeded the call to collective action developed a simple, yet innovative plan that:

• Invites every member of our legal community — law firm, corporation, nonprofit, court, public agency, law school and beyond — to jump on board for an initial, three-year plan for collaboration;
• Calls for the hiring of a Director of Inclusion — funded by the participating organizations and working exclusively for the benefit of the same participating organizations — who will have a genuine passion for and experience with diversifying a profession and making organizations more inclusive;
• Places recruitment of minority attorneys from outside Cleveland as the top priority for the first three years, while continued effort and innovation will be focused on what is happening inside Cleveland's existing community with respect to retention, leadership and promotion, our local pipeline (including Cleveland's law schools and the CMBA's high school, college and law school initiatives) and the breadth of engagement in Cleveland Legal Inclusion 2020 from across greater Cleveland; and
• Creates a sliding scale funding model where organizations are asked to contribute annually for the next three years based upon the size of their presence within our community (from a high of $12,500 annually for large firms to a low of $500 for nonprofits).

So, what's the WIIFM in all of this? Every member of Cleveland Legal Inclusion 2020 will:

1. Have direct and exclusive access to a national recruiter who will be able to tap into new markets and a community marketing plan that will showcase Cleveland as an inclusive environment to live, work and play;
2. Elevate their public profile both locally and nationally;
3. Increase their current diversification and future organizational leadership;
4. Increase their competitive edge; and
5. Increase retention of minority and women attorneys.


By the time you read this article, we hope to have landed another 10 to 20 — or maybe more — who share the vision and commitment to working together to create a more genuinely inclusive legal community in Cleveland. CRAIN's Cleveland covered this initiative in the October 23, 2016 issue, they called this project "an otherwise rare display of legal groups joining forces for the common good of their profession and the Cleveland region itself." Come meet us at the Bar to work toward a WIIFM that will catapult our legal community and greater Cleveland to the top of the inclusion — and thus the innovation — leaderboard.

Rebecca Ruppert McMahon is the Executive Director of the CMBA and the CMBF. She has been a CMBA member since 1995. She can be reached at (216) 696-3525 or rmcmahon@clemetrobar.org.
A Year of Changes for Elder Law

BY RACHEL A. KABB-EFFRON

There have been an overwhelming number of changes for Elder Law Practitioners over the past year. Medicaid rules in Ohio in particular have changed dramatically. The changes encompass substance and procedure and our clients are stuck in the middle of a tidal wave.

A Primer

Elder law is a comprehensive, holistic area of law that helps the elderly and disabled navigate the legal, care and financial challenges of the longterm care maze. When it comes to obtaining help paying for care, many clients access Medicaid. Medicaid is an assistance program for people of all ages who meet a set financial criteria. Medicare in contrast is an entitlement program for people of all ages who meet a set financial criteria. Medicare in contrast is an entitlement program for the disabled and those 65 and older that covers only skilled care. Medicaid, however, covers both skilled and unskilled services. Most long term care services are unskilled.

Medicaid has a myriad of rules and regulations about how to meet the financial criteria of the program. There are rules about assets, income and levels of care, and there have been recent major changes in all of those areas.

Gifting Rules Changes

One of the most notable is the rules pertaining to gifting. To qualify for Medicaid as a single person one must have less than $2,000 in assets. For a married person applying for long term care Medicaid, the healthy spouse can keep half of the assets subject to a minimum of $23,844 and a maximum of $119,220. To get to these asset limits, gifting within a five-year period before the date of application creates penalties. The rules around these penalties have been drastically changed this year.

When a person applies for Medicaid, the Ohio Department of Job and Family Services (ODJFS) asks if they have made any uncompensated transfers of funds within the 60 months prior to the baseline date of application. Then ODJFS reviews 60 months of bank statements for all accounts. When they find gifts, the caseworker issues a denial of Medicaid for one month for every $6,570 that is gifted. That restricted coverage period starts when the applicant is “otherwise eligible” for Medicaid, which means they must meet the level of care and meet the financial eligibility criteria.

It used to be that elder law attorneys used a “half a loaf” strategy to avoid financial impoverishment. The lawyer would advise the client to gift some funds (half the loaf) and hold funds (other half of the loaf) to pay for the period of ineligibility. That planning technique was changed in February 2006 with the Deficit Reduction Act of 2005.

Elder law attorneys read those changes and then adjusted their plans to something called “reverse half a loaf.” Under that planning technique, the Medicaid applicant would gift the entire loaf and ask the recipient of the gift to return some funds each month to help pay for care. This planning technique involved different tools in the elder law attorney’s toolbox. Sometimes the half of the loaf to pay for the restricted coverage period would be held and gifted back and sometimes it would be held in a promissory note or an annuity. Each of those strategies was essentially eliminated under these rules.

Each of these strategies works slightly differently. Under the re-conveyance strategy, for each $6,570 gifted back, one month would be deducted from the penalty period and roughly 40%–50% of the assets could be protected. The re-conveyance rules that had been delineated in 5160:1-3-07(M) were completely replaced effective January 1, 2016. The new section M requires a full return of
For long term care Medicaid, any individual Adjusted Gross Income (MAGI) Medicaid.

The biggest law change is to the income requirements for Medicaid, whether long term care Medicaid or community or Modified Adjusted Gross Income (MAGI) Medicaid. For long term care Medicaid, any individual or couple with over $2,199 in income became categorically ineligible for Medicaid.

Trust your legacy with our top-ranked Personal & Succession Planning practice.

Thompson Hine's professionals in our Personal & Succession Planning practice advise high net worth clients, business owners, executives, family offices and nonprofit organizations on a variety of sophisticated estate planning, business succession planning and charitable planning matters. Our lawyers also advise fiduciaries on trust and estate administration matters, risk management, conflict resolution and litigation. Working with a client's other advisers, we implement comprehensive plans for our clients.

For more information about our lawyers and how we can assist you, please contact us.

Patrick J. Saccogna, Partner
216.566.5761, Patrick.Saccogna@ThompsonHine.com

James Spallino, Jr., Partner
216.566.5865, James.Spallino@ThompsonHine.com

Andrew L. Fabens, III, Senior Counsel
216.566.5736, Andy.Fabens@ThompsonHine.com

Tom Feher, Partner
216.566.5532, Tom.Feher@ThompsonHine.com
not be able to sign the QIT and an attorney in fact may not have authority to do so. Many are having to set up limited guardianship for this purpose alone. Secondly, the banks are failing to recognize and set these up and without a direct deposit the $15 fees can easily wipe out the $50 personal needs allowance. Lastly, there are many who have no one to act as trustee and the nursing homes will have to hire attorneys to both draft the trusts and handle the guardianships for residents with little to no resources.

The good news is that there is a vendor, Automated Health systems (OhioQIT@Automated-healthsystem.com) to help clients.

The House

There are some changes to the treatment of the applicant's house. At the beginning of the year, Medicaid had varied policies about whether a house that was in a revocable living trust could be considered an exempt asset. The common interpretation was that it was not. Elder law practitioners would use this to bolster community spouse resource allowances by counting it in the snapshot of assets and then move it out to exempt it. The State first attempted to deal with this by penalizing the removal of the house from the trust as an uncompensated transfer. In the end, the State decided through a Medicaid policy letter in mid-February to find the house exempt regardless of the titling.

The Medicaid changes and their ramifications have been far-reaching this year and could literally take up a treatise. Be sure to take some time to take a CLE or review some of the webinars on Elder law. Know that regardless of all the changes, the law remains complex and interesting.

During my 18 years of law practice, there have been so many overhauls. The good thing is that clients continue to need advocates to help them navigate the pitfalls of the area with an ever-changing road map. Good guides are critical.
Kathleen M. Dugan

The Best Legal Research Tools for Ohio Probate, Estate Planning & Elder Law

Lawyers who handle matters for older clients practice in a broad range of legal disciplines. To the extent attorneys encounter unfamiliar legal issues, cases are not necessarily the best place to start. Instead, lawyers can turn to specific legal research treatises and form books designed to answer general and specific questions related to probate, estate planning, and elder law.

Probate and Estate Planning: Seasoned attorneys know that Baldwin’s Ohio Practice: Merrick-Rippner Probate Law (Thomson Reuters) is the seminal treatise for comprehensive coverage of probate law issues. This “soup-to-nuts” set covers wills and will contests, administration of decedents’ estates, guardianships, declaratory judgment and wrongful death actions, land sale proceedings, adoptions, name changes, tax issues, and many other matters. It also offers samples of many companion forms to save busy lawyers time drafting forms for clients and courts. Although many lawyers purchase this multi-volume set in print, Westlaw provides access to a searchable and browsable version online.

Lexis publishes a comparable multi-volume set entitled Anderson’s Ohio Probate Practice and Procedure. Both the print and online versions provide information and forms related to probate court jurisdiction, procedures, and estate administration, as well as wills and will contests, wrongful death actions, guardianships, trusts and the Ohio Trust Code, adoptions, name changes, powers of attorney, living wills, anatomical gifts, illegitimacy and inheritance, vital statistics, and miscellaneous other issues.

Lexis also publishes two single-volume probate treatises in print and online. Ohio Probate summarizes the jurisdiction of probate courts, descent and distribution, wills and will contests, trusts, executors and administrators, guardians and conservators, probate procedure, sale of estate property, and taxes. In addition, The Simple Will in Ohio is a handy paperback containing basic will and codicil samples, general will drafting tips, and estate planning questionnaires for single and married persons.

Practitioners who face complex and sophisticated issues related to wills and trusts may want to purchase the Ohio Estate Planning, Wills and Trusts Library from datatrace. This two-volume set serves as a guide to discussion and forms for tax planning with credit shelter/bypass trusts, wills with disclaimer trusts, generation-skipping transfer tax planning, revocable (living) trusts and pour-over wills, strategic estate planning with irrevocable trusts, charitable gift planning, and other very specific topics. Although it only available in print, the datatrace set comes with a companion CD of forms.

Many lawyers may not realize that The Ohio Transaction Guide (Lexis) contains extensive information and forms related to probate and estate planning. It not only covers contracts to make a will, standard wills, alternative will clauses, and codicils, but it also provides samples of testamentary trusts, revocable and irrevocable trusts, gifts, and powers of attorney.

Finally, no probate or estate planning practitioner’s library is complete without print or online access to The Ohio Probate Law Journal from Thomson Reuters/Westlaw. As the only Ohio law review or journal specifically devoted to Ohio probate law, it contains articles on new cases, statutory changes, and emerging issues.

Elder Law: Because elder law spans a broad array of topics, elder law attorneys may want to consider acquiring a few even more specific legal research tools. Each contains several unique topics that the others do not.

Baldwin’s Ohio Handbook: Ohio Elder Law (Thomson Reuters/Westlaw) is an excellent one-volume resource which covers both legal and quasi-legal issues for older clients, including aging, disabilities and diseases, death and dying, income and finances, divorce and cohabitation, health care, emotional and mental concerns, dignity and independence, generational issues, and elder abuse. It also discusses Ohio Medicaid, veterans’ rights, Social Security, and elder law civil actions.

Lexis publishes Anderson’s Ohio Elder Law Practice Manual which provides an overview of ethical issues in representing elderly clients, durable powers of attorney, living trusts, Medicaid eligibility and estate planning, Medigap insurance, and health care decisions, including advance directives.

The Ohio Elder Law Handbook (5th Ed., OSBA) is another great resource on many elder law issues. Some of the specialized topics this book covers include HIPAA, DNR orders, funeral arrangements, Medicare, Medicaid planning with trusts, Medicaid estate recovery, reverse mortgages, government pensions, age discrimination in Employment, Ohio’s fair housing law, nursing home litigation, chemical dependency, elder abuse, adult protective services, and consumer protection.

Finally, The Ohio Medicaid Manual by Columbus attorney Richard T. Taps is a must-have for all elder law attorneys. Published in conjunction with an annual training seminar for Ohio attorneys, this binder is a one-stop shop for information regarding Medicare, Medicaid procedures and waiver programs, Medicaid estate recovery, the Passport Program, long-term care partnerships, spousal and family allowances, patient liability, transfers of assets, annuities, and promissory notes. Importantly, it is also one of the few places to find information and forms for caregiver agreements.

Kathleen M. Dugan serves as the head Librarian of The Cleveland Law Library. She has been a CMBA member since 2003. She can be reached at (216) 861-5070 or kdugan@clelaw.lib.oh.us.
The proposed regulations under Section 2704 may severely limit valuation discounts taken on intra-family transfers.

Control
Section 25.2701-2 provides context and definitions utilized in Section 2704. The proposed regulations expand the definition of an entity to include LLC’s regardless of the entity’s classification for federal tax purposes. Section 25.2701-2 defines control as holding 50 percent of the vote or value of stock for a corporation or at least 50 percent of either the capital or profits interests or having the ability to cause liquidation of the entity for a partnership or limited liability company. This definition assumes that two family members who each own a 50 percent interest both have control even though in most situations, neither would have complete control. Under Section 25.2701-2 a controlled entity represents a corporation, partnership or any other entity where the transferor and/or applicable family members, as defined in the regulations, had control of the entity immediately prior to a transfer.

Three-Year Rule
Section 25.2704-1 states that transfers to family members resulting in a restriction or elimination of the right to force liquidation of the entity that occur within three years of the transferor’s death.

The proposed regulations under Section 2704 may severely limit valuation discounts taken on transfers of non-controlling private company interests to family members. Current practice allows consideration of discounts for lack of control and discounts for lack of marketability when valuing transferred interests. The proposed regulations represent an attempt by the IRS to curtail perceived abuses. The concern stemmed from the perception that taxpayers utilize restrictions in governing documents to artificially reduce asset values through valuation discounts. While some aspects of the proposed regulations will require additional clarification, it is important that advisors understand the implications of the proposed regulations to properly advise their clients.

OVERVIEW OF PROPOSED REGULATIONS

Is This The End of Valuation Discounts?

BY TAMI M. BOLDER

The proposed regulations under Section 2704 issued on August 2, 2016, may severely limit discounts taken on transfers of non-controlling private company interests to family members. Current practice allows consideration of discounts for lack of control and discounts for lack of marketability when valuing transferred interests. The proposed regulations represent an attempt by the IRS to curtail perceived abuses. The concern stemmed from the perception that taxpayers utilize restrictions in governing documents to artificially reduce asset values through valuation discounts. While some aspects of the proposed regulations will require additional clarification, it is important that advisors understand the implications of the proposed regulations to properly advise their clients.

Appraisers will not be able to consider applicable restrictions when valuing interests transferred to family members of a controlled entity under Section 2704-2 of the proposed regulations unless certain requirements are met. Section 2704-2 defines an applicable restriction as a restriction that limits the ability to liquidate the entity if the limitation lapses or the liquidation right may be removed by the transferor or the transferor's family. Applicable restrictions include restrictions on withdrawal rights and other restrictions on liquidation rights imposed under the terms of the entity’s governing documents and under local laws. This change results in the transferred interest being valued as if the restrictions do not exist, which would lead to a higher value for the transferred interest. However, there are certain exceptions, which include the following:

- Commercially reasonable restrictions on liquidation rights required by an unrelated person providing capital to the entity.
- Restrictions imposed by federal or state law (but only under certain conditions).
- Each holder of an interest must hold a put right, which allows them to receive cash or...
Determining Value Under the Proposed Regulations

Section 2704-3(f) of the proposed regulations states that if a restriction is disregarded, the fair market value of a transferred interest should be determined using generally applicable valuation principles as if the disregarded restriction does not exist. Potential disregarded restrictions may include the right of first refusal, and restrictions on transfer or withdrawal. If the disregarded restrictions are treated as if they do not exist, the effect would be to reduce the discount for lack of marketability, resulting in a higher value.

Under the new three year rule, if the entity is assumed to be a controlled entity, the transfer of a non-controlling interest will be disregarded and the transferor will be assumed to still have control at death. This will likely eliminate the discount for lack of control and potentially reduce the discount for lack of marketability, resulting in a higher value.

Determining Value Under the Proposed Regulations

Section 2704-3(f) of the proposed regulations states that if a restriction is disregarded, the fair market value of a transferred interest should be determined using generally applicable valuation principles as if the disregarded restriction does not exist. Potential disregarded restrictions may include the right of first refusal, and restrictions on transfer or withdrawal. If the disregarded restrictions are treated as if they do not exist, the effect would be to reduce the discount for lack of marketability, resulting in a higher value.

Disregarded Restrictions

Under Section 2704-3, a new category of restrictions, deemed “disregarded restrictions” would apply when valuing transferred interests in a controlled entity to a family member. Under the proposed regulations, applicable restrictions limiting the ability to liquidate the transferred interest will not be considered in the value of the transferred interest. Disregarded restrictions under Section 2704-3 include restrictions that (a) limit the ability of the holder to liquidate the interest (b) limit the liquidation proceeds to an amount that is less than Minimum Value (c) defer the payment of the liquidation proceeds for more than 6 months or (d) permit the payment of the liquidation proceeds in any manner other than in cash or other property, other than certain notes. If an applicable restriction is disregarded, the inability to liquidate and thus a discount for lack of marketability is not considered in valuing the transferred interest resulting in a higher value.

Transferring ownership to a non-family member may not be a viable option to avoid the control provision. The proposed regulations stipulate that interests transferred to non-family members are to be disregarded unless certain stringent requirements are met. Specifically, a non-family member would need to hold the interest for at least three years prior to the transfer, the interest would need to be at least 10 percent of the value of all equity interests and the total ownership interest of all non-family members would have to be at least 20 percent of the total equity. In addition, the non-family member would be required to have a put right which allows them to receive Minimum Value for their interest in cash or other property within six months. Given the above conditions, it will be very difficult for non-member interests to avoid being disregarded.

Issues with the Proposed Regulations

There is concern by many that the proposed regulations do not reflect economic reality. The regulations call for disregarding actual restrictions that bind an investor in an entity. As such, valuations under the proposed regulations may require being labeled as a hypothetical valuation, which refers to valuations based on assumed conditions that conflict with actual facts. Also, the regulations include an implicit assumption that controlling family members will collaborate and vote collectively to eliminate the applicable or disregarded restrictions discussed in the proposed regulations. While controlling family members may have the ability to make changes to the rights and restrictions contained in the governing documents, family members may have differing opinions and may not agree on a particular course of action.

Timing

The IRS scheduled a public hearing on December 1, 2016 to discuss the proposed regulations. If the regulations become final on or shortly after December 1, 2016, the effective date would be 30 days after being finalized. Given this timing, the limits on taking valuation discounts for owners transferring wealth to family members may be in place shortly after the end of the year. It is important that owners considering transfers receive insight on the implications of the proposed regulations from legal counsel and valuation specialists to determine if action should be taken before the law changes.

Dr. Tami M. Bolder, CPA/ABV, ASA, MBA, DBA is a Senior Manager in the Cleveland office of BDO Consulting specializing in business valuation services. Dr. Bolder has over 12 years of extensive experience valuing closely held businesses for various purposes including estate and income tax planning, litigation, and marital dissolutions. She was also appointed to the AICPA Business Valuation Committee. She has been a CMBA member since 2014. She can be reached at (440) 394-6161 or tbolder@bdo.com
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Ohio Medicaid Update

“Disability Determination Redesign” and STABLE Accounts

BY ALLISON McMEECHAN

In my last article, I provided a summary on the “Achieving a Better Life Experience Act of 2014,” (the “ABLE Act”). At the time of publication, the status of ABLE Accounts in Ohio was not known. However, effective June 1, 2016, Ohio began accepting applications for STABLE investment accounts.

STABLE accounts permit disabled individuals to save and invest money without losing eligibility for their means-tested public benefits such as SSI and Medicaid. As set forth in Ohio Revised Code §113.53, a designated beneficiary, or a trustee or guardian of a designated beneficiary who lacks capacity to enter into an account agreement, may apply to open a STABLE account. A designated beneficiary may only have one STABLE account. By definition, a designated beneficiary is an individual who is entitled to benefits based on blindness or disability under title II or XVI of the Social Security Act, and such blindness or disability occurred before the age of 26.

The cost to establish a STABLE account is free; however, there is a minimum deposit of $50 required to open the account. The ongoing administrative fees are minimal: $2.50 per month for Ohio residents ($5.00 for non-Ohio residents) and asset-based management fees ranging from 0.19% to 0.34% depending on the investment selection (0.45% to 0.60% for non-Ohio residents). Account holders have five investment options: Vanguard LifeStrategy Growth Fund, Vanguard LifeStrategy Moderate Growth Fund, Vanguard LifeStrategy Conservative Growth Fund, Vanguard LifeStrategy Income Fund, and BankSafe, which is an FDIC-insured account through Fifth Third Bank. When a designated beneficiary opens a new STABLE account, he or she can allocate the initial contributions amongst all five investment options. Any new contributions will be invested according to the percentage allocation made at the time the STABLE account was opened. Changes to the investment strategy may be made twice per calendar year. There is also a loadable prepaid debit card available to STABLE account holders. A STABLE account may be opened online at www.stableaccount.com.

STABLE accounts are available to individuals in any state, they have a lifetime cap of $426,000, and offer up to a $2,000 state income tax deduction for Ohio residents who contribute to a STABLE account. Anyone may contribute to a STABLE account; however, the maximum annual contribution may not exceed $14,000. Earnings made on a STABLE account are exempt from federal and Ohio state income taxes, as long as the funds are spent on Qualified Disability Expenses. Qualified Disability Expenses include home improvement and repairs, adaptive equipment and assistive technology, therapy, education, transportation, and housing. Permissible distributions for housing could be a significant benefit for individuals receiving SSI benefits as the payment of in-kind support and maintenance will typically reduce the SSI benefit by one-third. However, as long as the distribution from the STABLE account is used on housing expenses within the same calendar month as the withdrawal, the SSI benefits will not be reduced. As long as the STABLE account does not exceed the lifetime cap, the account is exempt for Medicaid purposes. Up to the first $100,000 is exempt for SSI purposes. Upon the death of the designated beneficiary, any remaining funds in the STABLE account may be used to pay outstanding Qualified Disability Expenses and funeral costs. Any remaining funds will then be available to repay the State of Ohio for any Medicaid benefits paid after the STABLE account was opened.

Presently there are three bills pending to modify the ABLE program: the ABLE to Work Act of 2016, the ABLE Age Adjustment Act, and the ABLE Financial Planning Act. The ABLE to Work Act proposes to allow individuals with disabilities who are working to deposit their earnings (up to the federal poverty level) in addition to the $14,000 annual cap. The ABLE Age Adjustment Act proposes to increase the age requirement from 26 to 46. The ABLE Financial Planning Act proposes to amend the Internal Revenue Code to permit tax-free rollovers from 529 plans to qualified ABLE programs, and vice versa.

STABLE accounts are a good option for some disabled individuals and should be used in conjunction with more traditional planning, including special needs trusts. However, the STABLE account has its shortcomings and should not replace other options available to disabled individuals who are eligible for means-tested public benefits. In addition to STABLE accounts, practitioners should also be aware of the substantial changes affecting Ohio Medicaid consumers and their benefits. Effective August 1, 2016, Ohio has transitioned from a “209(b)” state to a “Section 1634” state. This transition is being referred to as the “Ohio Disability Determination Redesign.” As part of the transition, there will now be one disability determination system for individuals applying for SSI. Those individuals will automatically be enrolled in Medicaid if they are approved for SSI based on a disability. As part of the transition, individuals enrolled in Medicaid may now retain $2,000, which is an increase from the $1,500 resource limit previously imposed on Medicaid recipients.

The most significant impact on Ohio Medicaid eligibility is the implementation
of an income cap and the elimination of the “spend down.” Previously, individuals with income in excess of the eligibility limits could use medical bills to reduce their income and achieve Medicaid eligibility. The new income limit for individuals who need Medicaid long term care services is $2,199. Anyone with income in excess of the $2,199 will now be required to establish a Qualified Income Trust (“QIT” or “Miller Trust”). QITs are authorized by 42 U.S.C. §1396p(d)(4)(B) and the requirements for a QIT to be valid in Ohio are set forth in Ohio Administrative Code §5160:1-6-03.2.

Pursuant to the OAC, a QIT must be valid under the laws of the state of Ohio, and meet the following requirements:

1. The QIT must be irrevocable;
2. Only the primary beneficiary’s income may be placed in the QIT;
3. The source(s) of income must be identified;
4. The primary beneficiary cannot transfer or assign his or her right to receive income directly to the QIT;
5. No other property may be placed into the QIT; and,
6. The QIT must require payback to the State of Ohio upon the death of the primary beneficiary.

Distributions from the QIT can only be used for the primary beneficiary’s personal maintenance needs allowance, a maintenance allowance for the spouse or family dependents, incurred medical expenses of the primary beneficiary, which can include the patient liability, and an amount not to exceed $15 per month for bank fees and attorney fees. A QIT template and Certification of Trust template are available at www.medicaid.ohio.gov. For individuals who are not represented by counsel, the State of Ohio has contracted with Automated Health Systems to identify those individuals who need a QIT to remain eligible for Medicaid and to provide assistance in setting up the QIT.

The execution of QITs may pose a problem for those individuals who lack the capacity to execute the QIT and either do not have a power of attorney or whose power of attorney does not grant the agent the specific authority to create a trust. In those instances it may be necessary to apply for a limited guardianship to establish the QIT. From an administrative standpoint, the QIT account should be opened using the primary beneficiary’s social security number. Income will continue to be deposited to the primary beneficiary’s account, and then excess income should be transferred to the QIT account each month. It is imperative that the funds in the QIT account be spent each month and that there is no carryover balance in the QIT account. Any funds remaining in the QIT account at the end of the month may disqualify the primary beneficiary from Medicaid eligibility.

Another noteworthy change impacting individuals requiring institutional care relates to real property. The residence is still exempt for married couples where the community spouse remains in the home. However, previously, any real estate (other than the residence) would be exempt provided it was listed for sale through a real estate broker or agent. For individuals applying for Medicaid, the residence was exempt for a period of 13 months. After the expiration of 13 months, the residence was required to be sold and the proceeds spent down to within eligibility limits. Under the new rules, there is no longer an exemption for real property, even if it is listed for sale, as OAC §5160:1-3-05.15 was rescinded. Therefore, real estate is counted toward the $2,000 asset limit. Further, the 13-month grace period for the residence has been eliminated. The new regulations exempt the residence if the individual intends to return home and provides a written, signed statement to the department of Job and Family Services. See OAC §5160:1-3-05.13.

The new rules also exempt one vehicle, regardless of value, if it is used for transportation, and further exempt spousal retirement funds in certain circumstances. The aforementioned are just a brief summary of some of the new Medicaid rules. The new changes and complexity to Ohio Medicaid rules further exemplifies the need to retain competent counsel who focuses primarily in elder law issues. These changes have a significant impact on the elderly and those dependent on Medicaid and therefore knowledge of the new rules is imperative.

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For the past 11 years, Allison McMeechan has focused her practice on elder and special needs law, including estate and long term care planning, estate and trust administration, probate and guardianships. She joined Reminger Co., LPA in 2015. Allison is a member of the National Academy of Elder Law Attorneys National and Ohio Chapters, the OSBA’s Estate, Trust & Probate Law Section, and Elder & Special Needs Law Committee, and the CMBA’s Estate Planning, Probate & Trust Law Section. Allison has been a CMBA member since 2013. She can be reached at (216) 430-2105 or amcmechan@reminger.com.
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At this time of the year, it only seems appropriate that we reflect on how truly blessed we all are. Sure, the Tribe lost a heartbreaker in a historic World Series, and it feels like my Brownies haven’t won a game since I was in high school. But we have so much to be thankful for: a career founded on service to others; a knowledgeable and professional bar; and a livable community whose cornerstones are the arts, culture, sports, hard work, resilience, toughness, kindness and charity. With this backdrop, it’s time to say thank you to the Fellows of the Cleveland Metropolitan Bar Foundation.

THE HISTORY OF THE FELLOWS PROGRAM
The Fellows program finds its roots in the very beginnings of the Bar Foundation. Founded in 1999, our first Foundation Fellow, Mary Whitmer, started it all with a generous donation to our nascent endowment. Since then, 23 law firms and corporations, along with 498 individuals, have added their names to the Fellows honor roll. Sparked by an incredible Endowment campaign led by Hugh McKay and Ginger Mlakar in 2013-14, the rolls of Fellows swelled by 163 and our Endowment grew by $1.5 million to $2.24 million. Today, we have 10 Gold Fellows, 13 Silver Fellows, 475 Fellows, and an Endowment that will live on in perpetuity.

THE HONOR OF BEING A FELLOW
Being named a Fellow is truly an honor. Nominations are extended only to distinguished members of the legal community who have contributed significantly to the advancement of justice in the Greater Cleveland community and demonstrated the highest standards of integrity and professionalism. They are members of the Cleveland Metropolitan Bar Association who have made impactful contributions to the Bar Foundation. They are nominated by the CMBF’s Fellows Committee and approved by both the CMBA and CMBF boards. They are experienced attorneys who have been admitted to practice for ten years or more, and they are a select group: only 20% of the CMBA membership has the opportunity to participate in this best-in-class program which exemplifies the Foundation’s motto of “Lawyers Giving Back.”

WHAT ARE THE TYPES OF FELLOWS?
There are various levels of giving available, all of which are meaningful and generous. See above table.

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Fellows’ commitments at these levels can be paid over a period of up to 10 years, or if paid in full at the outset, are discounted.

These Fellows’ commitments can be paid over a period of up to ten years.

How can I make a difference?
This is very easy. For estate gifts, you simply need to include the CMBF in your estate plans. Your estate planning attorney can draft the CMBF as a beneficiary in your Last Will and Testament and/or your Trust. Additionally, you can change your beneficiary designations on your life insurance policies, retirement assets, and/or bank or securities accounts to include the CMBF. There are more sophisticated ways to do it, such as through gifts benefiting both you and loved ones and at the same time benefitting CMBF. The most common types of these “dual-benefit” gifts are charitable gift annuities and charitable trusts. With any of these “estate type of gifts,” you are included in an ever-increasing and exclusive CMBF Legacy Fellows Society.

What is your legacy?
Many of us ponder this question. We hope our children learn all the right lessons, we hope to make a difference in the legal community and to our clients, and we hope to leave the world a better place somehow — all as part of “our legacy.” In response to lawyers pondering this question and looking for a way to give back to the legal and broader community through an estate gift, the CMBF established the “Legacy Fellows Society” a few years ago. The CMBF is proud to be a partner with these leading and forward-thinking lawyers. Their gifts will make an impact on the lives of so many in Greater Cleveland into the future. This is just another reason to exclaim “We are proud to be Cleveland Lawyers!”

Thank You, Fellows

Legacy Fellows
We are especially proud and excited about our Legacy Fellows initiative. I’ll let Ginger Mlakar, our Endowment Chair and long-time Foundation leader, tell you more:

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If you want to learn more, go to CleMetroBar.org/LegacyFellows. You should join us and become part of it.

How can I pay tribute to loved ones, colleagues and mentors?

At the time of loss of inspiring lawyers, we seek out meaningful ways to share and celebrate their lives. In response to this need, the CMBF recently announced a way to continue their legacy. By making a memorial/tribute gift to the CMBF, these gifts will be featured in an upcoming CMBA Bar Journal to recognize the accomplishments of these great attorneys with the entire CMBA membership. These gifts will be added to the CMBF's endowment — providing a lasting impact on the strong and impactful lawyer-led programs into perpetuity. What a wonderful way for us all to honor and celebrate the lives of such fellow lawyers!

HOW ARE FELLOWS’ CONTRIBUTIONS USED?

Fellows’ contributions, which are eligible for income tax deduction, are dedicated to the CMBF Endowment. The Endowment provides a steady, growing stream of income into perpetuity for the CMBA’s transformative programs positively impacting our community in the areas of education and workforce development, social justice, and non-profits and the arts. These award-winning programs include:

- The 3Rs: Rights, Responsibilities, Realities and 3Rs+
- High School Mock Trial Competitions
- Cleveland Homeless Legal Assistance Program
- Pro Se Divorce Clinics
- Reach Out: Legal Assistance for Nonprofits
- Volunteer Lawyers for the Arts
- Law Day
- Louis Stokes Scholars Program
- Stephanie Tubbs Jones Summer Legal Academy

WHAT IT MEANS TO BE A FELLOW

I spoke with a number of Bar leaders, all of whom are Fellows, as part of my preparation of this article. A consistent theme emerged quickly. Although both the CMBA and CMBF are continually looking for new ways to recognize the generosity of our Fellows, our colleagues in the legal community became Fellows because it’s the right thing to do for our young people, for the less fortunate members of our community needing legal services and access to justice, and for community-driven artists and nonprofits. Their own words are the most powerful testament to the incredible impact of the Fellows Program. Fellows Committee Chair David Paris described it this way:

If you recall the scene in Annie Hall where Woody Allen brings Marshall McLuhan into the frame to explain why the pontificating man standing in line had no conception of his work, you’ll understand why I’m reluctant to write about the philanthropic opportunities we have through the CMBF. Members of the CMBA have enthusiastically embraced the Foundation supported programs and have demonstrated remarkable generosity over the past 10 years. 1,000 attorneys volunteering over 25,000 hours of service and connecting with more than 25,000 Cleveland School students is the embodiment of charitable giving. And truly, anything I have or will do for the Foundation is dwarfed by the deeds and efforts performed by so many others over the years. For most of us, creating a culture of giving in our personal lives and in our law practices is as important as loving our families and friends, and serving our clients and profession.

Our firm is not unique when it comes to group philanthropy. One of our staff coordinates with a monthly charity that we support through the firm’s facebook page; competitive interoffice food drives for local food banks; Saturday morning medical supply sorts for Medwish International; walks and runs throughout the year; the firm’s endowed scholarship funds at both local law schools; an annual Make-A-Wish gift; adopting a family in need at Christmas; and, recently, a most enjoyable afternoon devoted to “random acts of kindness,” where 20 of us walked the downtown streets paying for strangers’ parking, coffee, lunch and cab fare. All of us are honored to be lawyers who give back; to do things for others who will never be able to repay us.

So, once Hugh McKay and Ginger Mlacak met with me a few years ago and explained the importance of the CMBF programs, the positive outcomes that have been achieved and the vision for the future which can only be realized with a more robust endowment, it just became a matter of how and to what extent each member of the firm would participate. I’m proud to say that Nurenberg, Paris is now participating at 100% as Fellows of the Foundation including Silver, Legacy and Leadership levels. In addition to donations over time, and one time donations at a discount, the Foundation has been very creative in assisting members with legacy gifts through life insurance policies, bequeathments and in memoriam contributions.

Attorney Steve Walters, a role model when it comes to philanthropy in the community, stated:

As attorneys we have the moral responsibility to preserve our community and our society as a whole. Attorneys giving back to our community fosters the ideal of common good being our common ground.

Fellows Committee co-chairs Hugh McKay and John Lebold added:

We became Fellows to ensure the quality of our programs which reach so many people in the community. In addition, we became Fellows to advance our endowment and help assure that for the long-term we will be able to maintain and grow these amazing programs for the greater good. It is an opportunity for lawyers (and others) to give back to the community which provides so much to us. A small price to pay, to ensure so much.

And listen to what other Bar Association and Foundation leaders through the years have had to say:

I became a Fellow member to...

- "...enrich our city through our significant community programs."  
  – Barbara K. Roman

- "... provide financial support for programs that we deem to be vital to the community in which we live and in which we earn our livelihood."  
  – Marvin Karp

- "...give back to the community and in so doing, better the lives of our fellow citizens."  
  – P. Kelly Tompkins

- "... show my gratitude for the opportunity to practice law in this community."  
  – Mary K. Whitmer

- "...help those not as fortunate as I have been."  
  – Raymond Malone

- "...fulfill an obligation all lawyers have to bring fair opportunity to as many people as possible and particularly to those in need."  
  – Kerin Lyn Kaminski

- "... continue to help for years to come."  
  – Bruce G. Hearey

- "... truly ‘make a difference’ in the lives of those who benefit from the outstanding programs we support.”  
  – Michael Ungar

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“... support programs which foster lawyer involvement in the leadership, education and enrichment of our community.”
– Lynn A. Lazzaro

BEING A FELLOW MATTERS
It is probably pretty obvious by now that being a Fellow matters. A lot. It matters on a personal level to every individual Fellow, providing fulfillment of the duty to give back. To whom much is given, much is expected. Check that. It matters to our Bar Association, providing necessary funding for its many educational, social and justice for all programs. Check that, too. And it matters to our young people, our less fortunate citizens, and our artistic and nonprofit communities who need us and rely on our support. Emphatically check that as well.

THANK YOU!
Invitations to become a Fellow recently went out as part of the Foundation’s continuing efforts to grow our Endowment for the benefit of future generations. If you have accepted this invitation or are already a Fellow, I want to sincerely thank you on behalf of the Bar Foundation. If you have received an invitation and are considering it, I hope this article will help convince you to become a Fellow and support the impactful, worthwhile programs and causes of the Bar Association and Bar Foundation. If you’re working on estate planning, please consider a gift through our Legacy Fellows program. And, to all of our Fellows, all of you, and all of your families, please accept my sincere wishes for a blessed holiday season!

Drew T. Parobek is a partner at Vorys, Sater, Seymour and Pease LLP. He is president of the Cleveland Metropolitan Bar Foundation and has been a CMBA member since 1993. Drew can be reached at (216) 479-6162 or dtparobek@vorys.com.
Volunteer Now for the Ohio Mock Trial!

The CMBA is proud to host the first two stages of the Ohio Mock Trial Competition in Cuyahoga County again: District trials will be held on January 20, 2017, and Regional trials on February 10.

The CMBA will again be welcoming ALL local high school teams to our District Competition, so we will need your help more than ever to support this exciting annual competition! This is Ohio’s largest academic competition and Cuyahoga County high school participation last year was among the highest yet. With the help of volunteers from the legal community in 2016, over 650 students representing 22 high schools in Cuyahoga, Geauga, Lake, and Lorain Counties were provided the opportunity to hone their communication, analytical, and courtroom skills.

Each year volunteer judges and attorneys serve as competition judicial panelists. At this done-in-a-day volunteer opportunity, volunteers have the chance to observe the region’s finest budding legal minds in an exciting afternoon of competition. Judicial panels score students based on their understanding of the case facts and applicable law, the roles of the attorney and witnesses at trial, and courtroom procedures and decorum. In the 2017 competition, students will consider a case of defamation of a public official by a news station.

For more about the Ohio Mock Trial Competition, visit CleMetroBar.org/OhioMockTrial.

SIGN ME UP!

☐ YES, I will serve as a judicial panelist for the Ohio Mock Trial Cuyahoga District Competition on January 20, 2017, from 11:30 a.m. to 5 p.m.

☐ YES, I will serve as a judicial panelist for the Ohio Mock Trial Cuyahoga Regional Competition on Friday, February 10, 2016, from 11:30 a.m. to 5 p.m.

☐ I will attend the volunteer orientation at noon on Tuesday, January 10.

☐ I have previous mock trial judging experience. My previous role (scoring and/or presiding)

Name ________________________________________
Firm/Organization (if any) __________________________
Phone __________________ Fax _____________________
Email _________________________________________

Please return this sheet by email or fax. Reminders will be sent before the competition, but please save the date on your calendar.

For more information, contact Jessica Paine at (216) 696-3525 x4462 or jpaine@clemetrobar.org.
Jessica Berg and Michael Scharf were appointed as co-deans of Case Western Reserve University School of Law in August 2015. Having shared the role as acting and interim and now permanent co-deans since November 2013, they have worked to lead the law school in a new and unique way. We wanted to know them better and hope this quick Q&A will help you know these Case Western Reserve University Law School leaders better as well.

The model of permanent co-deans is rare. Having worked in tandem for nearly three years, what is it like to share the position and how does it benefit you, the law school and your students?

MICHAEL When we began as co-deans three years ago, we were the only ones in the country. But, while law school co-deans are rare, there are many examples of successful co-CEOs that have been subject to study. The research indicates that successful co-leadership requires an extremely collaborative pair who trust each other implicitly. After our first year of co-deaning, we published an article in the Deans’ symposium issue of the Toledo Law Review about all the things we do to make shared law school leadership successful. Since then, four other law schools have followed our lead and appointed co-deans, including our neighbor Akron University School of Law.

JESSICA Co-deaning confirms the adage that two heads are sometimes better than one. We can divide up responsibilities to play to our respective strengths. Co-deaning also increases creativity, reduces stress, and literally enables us to be in two places at once. We are able to travel twice as much for admissions recruitment and fundraising, and as a result, our admissions have steadily improved and we have had record fundraising years. And we each continue to teach a course, keeping us engaged with students.

In general, what are the biggest challenges you see facing the law students of today, as well as the challenges the law school faces in meeting the needs of today's students?

JESSICA The greatest challenge for today's law students is obtaining employment in a tight legal market. We responded to the legal recession by reducing our JD class size, and introducing a new experiential curriculum designed to make our graduates as practice ready as possible. We've also instituted a number of measures to boost our bar pass rate, which improved seven percent across the 18 states in which our students took the bar exam last year. As our bar scores have risen, so too have our employment rates. At the reporting period, 90% of the class of 2015 was employed.

In January of this year, Case Western Reserve University School of Law named its inaugural Associate Dean of Institutional Diversity and Inclusiveness. Why is this such a transformative position at the law school?

MICHAEL The two of us are strongly committed to fostering as positive and welcoming a climate for our students, staff, and
The law school is ranked 15th in the nation for experiential education by National Jurist. This has been part of the fabric of the clinical program for years and an important part of the transformation of the law school since 2008. How do you see this work continuing to help your students prepare for the ever-changing needs of the legal market?

JESSICA Building on more than 45 years of clinical education, we recently launched a new curriculum that provides students client contact in the first year, doubles the number of required skills and writing credits, expands the number of upper class lab opportunities, and culminates in a required third-year capstone — an intensive 4–8 month immersion in practice in our clinics or in a select group of national and international externships. Our new curriculum reflects our belief that repeated, in depth, experiences in the role of a lawyer will make our students as ready as possible for practice after graduation.

How can the CMBA best position itself to be an indispensable resource for your law students?

MICHAEL The CMBA has been a great partner for our law school. We believe the CMBA presents extremely valuable mentoring and networking opportunities for our students, as well as providing important substantive programs that fill gaps in their legal education.

In what respect, if any, has your own career as a lawyer prepared you for the job of law school dean?

JESSICA Michael co-founded and directed for 20 years a global pro-bono law firm, the Public International Law and Policy Group, during which he honed his fundraising and management skills.

MICHAEL And during her 17 years of teaching at our Law School, Jessica held a variety of leadership positions, culminating in chairing the initiative that developed the law school’s new curriculum which was featured by US News and World Report in March as one of the five most innovative in the country.

Law school graduates face tough competition when competing for jobs. What advice would you give beyond a strong focus and success on the academic side of school?

MICHAEL It’s not all about grades. Experience outside the classroom — moot court, mock trial, law journals — can make an applicant stand out. Fascinating internships and externships can be fodder for successful job interviews. And students need to develop good relationships with their professors and work supervisors so that they can obtain strong recommendation letters and telephonic references. Interestingly, a recent study concluded that networking — in all settings, but especially through internships and externships and summer jobs — is more important than any other factor in obtaining legal employment.

On which of today’s dominating issues, such as immigration, climate change, health care or the opioid crisis, do you believe today’s law school graduates could bring his/her skills and training to bear and use them to make a difference?

JESSICA Our law school has nationally ranked programs in health law (#9), International Law (#11), and IP Law (top 25). Before they graduate, our students have the opportunity to make a significant impact in these fields through our labs and clinics. Our students’ work for the Special Court for Sierra Leone, for example, was nominated for the Nobel Peace Prize by the Court’s Chief Prosecutor. Our students’ assistance last year to detained immigrants in Dilley, Texas resulted in the release of 90 incarcerated women and children. The students in our IP Venture Clinic launched 30 start ups last year. And the students in our new Human Trafficking program are helping victims avoid incarceration and obtain rehabilitation. Whether they go on to work at law firms, government agencies, or NGOs, our graduates use their skills and experience to continue to make a difference after law school.

What do you like most about living in Greater Cleveland?

MICHAEL As a life-long Clevelander, I have always loved all the outdoor opportunities, from hiking in the Metro Parks and Cuyahoga Valley National Park to sailing on Lake Erie, and from attending concerts at Blossom to hiking on the Toe Path. And the recent success of our professional sports teams is the icing on the cake! JESSICA I’m a transplant to Cleveland, but have raised my children here. It is the perfect sized city — great cultural opportunities, lots of different kinds of activities, fabulous schools at all levels, and easy to get around.

What do you like to do in your time outside school walls?

MICHAEL I host a radio show on WCPN 90.3 Ideastream called “Talking Foreign Policy,” and play the guitar in “Razing the Bar,” the Law School’s faculty-student band, which performs regularly at the “Happy Dog/Euclid Tavern.” I also like to travel, and hiked part of the Inca trail around Machu Picchu this past summer.

JESSICA When the weather permits, I can be found hiking around the parks, picking apples with my family, and generally enjoying the gorgeous outdoors!
Each month, these pages will be dedicated to highlighting just some of the activities and programs of your Cleveland Metro Bar.

**CLE**

Do you have your needed CLE hours? The clock is ticking away on this reporting period, but we still have dozens of programs to help you get your remaining hours. Consider leveraging the year-end schedule to get a jump on next year’s reporting period. Check out the full list of programs online.

**PREPARING FOR THE “WHAT IF’S”**

Preparing your New Year’s Resolutions? Resolve to plan for your practice! Are you prepared for the “what if’s” of business life? To help solo practitioners do just that, the CMBA Ethics & Professionalism Committee developed the What If Preparedness (WIP) program. Take action today to protect your clients and aid your family members who may not know where to begin. And if none of the scary “what if’s” come to pass, the information that you compile and update will help you prepare to bring in a new associate or partner, sell your practice, or wind it down yourself.

**DID YOU KNOW?**

Just a quick peek at our members by age group:
- G.I. Generation (1901–1924)
- Silent Generation (1925–1942)
- Baby Boomers (1943–1964)
- Gen X (1965–1979)
- Unknown

- 36% (Unknown)
- 24% (Millennials)
- 22% (Gen X)
- 10% (Baby Boomers)
- 7% (Silent Generation)
- 1% (G.I. Generation)
ETHICS ESSAY COMPETITION

The CMBA’s Ethics and Professionalism Committee is once again offering its Ethics and Professionalism Essay Competition, sponsored by AmericanLawRadio.com and the Law Office of David B. Malik. The Competition is open to all full- and part-time students enrolled in a JD or LLM program at an ABA-accredited law school. First prize is $1,500. Second prize is $1,000. The first-place essay may be published in a future edition of the Bar Journal.

The 2017 topic: What are the ethical considerations for law firms publishing law-related material on their websites and in their social media (e.g., blog posts) written by attorneys who are not members of the law firm (i.e., ghost writing)? You may presume that the firm has the author’s permission to publish the material.

Submission Deadline is February 9, 2017. Competition rules and the submission form are online.

LEGAL DIRECTORY

Our annual Legal Directories are in stock and available for purchase. Available in print and digital formats, the Legal Directory includes information about our Association and Foundation and how you can get involved, court information, law firm listings and specialties, attorney roster, affiliate members roster, and attorney support services. It also includes local, state and federal resources as well as, professional responsibility materials and attorney resources. Order your indispensable practice resource today.

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CMBA HIGHLIGHTS

Throughout this journal are a number of CMBA events, updates and info worthy of your attention. For your convenience, here is a quick reference list:

- Rock the Foundation..............................4
- 3Rs Call for Volunteers..........................8
- CLE in the Sunshine State.......................8
- CMBA Conference Center.......................10
- Bar Journal Advertising........................17
- Ohio Mock Trial................................25
- Bar Foundation...................................51
- LRS Holiday Promo..............................51
Earn CLE anytime, anywhere.

Take up to 12 hours of self-study credit.

A great variety of programs to choose from.

Convenience | Selection | Affordability

Earn up to 12 hours of Ohio CLE credit online at Cleveland.FastCLE.com

The Cleveland Metropolitan Bar Association offers high-quality online CLE, a convenient way for you to earn up to 12 hours of Ohio CLE credit per reporting period.

Our online CLE programming allows you to take CLE courses on a wide variety of topics, any time of the day, any day of the week. And, at only $45 per hour for members and $60 per hour for non-members, our online CLE is also cost-effective.

For more information or to view course listings, please visit Cleveland.FastCLE.com or call (216) 696-2404.
Meet us at the Bar for lunch, networking, and CLE. Check out these one-hour CLEs, sponsored by our Sections.

Ohio Civil Rule 12 Motions
Hon. Janet R. Burnside, Cuyahoga County Court of Common Pleas

Fifteen Minutes of Fame or Fifteen Minutes of Shame? How to Make the Most of Your Oral Argument in the Court of Appeals
Hon. Melody J. Stewart, Eighth District Court of Appeals

Cleveland Municipal Court Overview
Hon. Suzan Marie Sweeney, Cleveland Municipal Court

Cuyahoga County Probate Court Overview
The Hon. Laura J. Gallagher, Cuyahoga County Probate Court

Crisis Management & Communications for Lawyers & Clients
Tuesday, December 20
CREDITS 3.50 CLE Credits — with 2.50 hours of Professional Conduct
REGISTRATION 8:30 a.m.
SEMINAR 9 a.m. – 1:00 p.m.

As almost any general counsel of a large, publicly traded, consumer-oriented company will tell you, legal controversies today are tried in the Court of Public Opinion — at least as much as in any Court of Law. Every organization, especially large, publicly-traded corporations, has much to gain (or lose) by the way a legal controversy is positioned in the media. Because the value of a company’s reputation is immeasurable — and perhaps its largest uninsured asset — a corporation loses when the brand image is

Register at CleMetroBar.org/CLE!
For questions or to register over the phone, call (216) 696-2404.
In these days of 24/7 instant news, attorneys and their clients simply cannot wait until a legal decision is rendered. They must be prepared to vigorously defend their situation in a wide variety of venues, as well as media outlets. In the first portion of this seminar, attorneys will hear about the canons and case law surrounding the relationship between PR activities, PR counsel and the management of the media, often a critical component of case strategy in litigation practice.

The remainder of the seminar includes: establishing & maintaining “control of the message”; when a reporter calls — making your points and not just answering questions; what reporters expect; what newsmakers should expect; defining and creating key messages; reporter’s agenda vs. the attorney’s agenda; the fundamental differences between print, television and radio interviews and how each require different skill sets; dealing with the press proactively and reactively; “off the record, not for attribution” and other advanced techniques; and alternatives “no comment.”

**The Civil Perspective – Professionalism**
Deborah A. Coleman, Esq., Coleman Law Llc

**The Criminal Perspective – Professionalism**
Roger M. Synenberg, Esq., Synenberg, Coletta & Moran, Llc

**Managing The Media: Practical Applications & Case Studies**
Bruce M. Hennes, Managing Partner, Hennes Communications
Continuation of Case Studies, Seminar Chair

The CMBA and its Real Estate Law Section Present

### 38th Annual Real Estate Law Institute 2016 – Video

**CREDITS** 12.75 CLE

**Wednesday, December 21**
(6.25 CLE Hours)

**Current Developments**
Irene M. MacDougall, Walter | Haverfield LLP
John W. Waldeck, Walter | Haverfield LLP
Lori Pitzman Haas, Ulmer & Berne LLP

**Commercial Lending 101: From Term Sheet to Closing**
David C. Ricco, Walter | Haverfield LLP, Moderator
Kenneth M. Lapine, Miller Goler Faeges Lapine LLP
Peter C. Bergan, Jones Day
Frank C. Santossimo, Singerman, Mills, Desberg & Kauntz Co., LPA

**Tax Increment Financing: From Cradle to Grave**
Keith H. Raker, Tucker Ellis LLP, Moderator
Robert J. Hanna, Tucker Ellis LLP
David Ebersole, Assistant Director of Economic Development, City of Cleveland

**Third Party Property Management Agreements**
Brian J. Lenahan, Brown Gibbons Lang Real Estate Partners
John Joyce Jr., RHIM Real Estate
Tracy Ols, Director of Commercial Property Management, Hanna Commercial Real Estate

**1031 Exchanges**
Kevin M. Hinkel, Kadish Hinkel & Weibel
Raymond C. Novinc, First American Exchange Company, LLC

I’m From the Government, I’m Here to Help – SBA Loan Programs
Paul J. Singerman, Singerman, Mills, Desberg & Kauntz Co., LPA, Moderator
Kimball E. Rubin, Kimball E. Rubin & Associates
John Kropf, Growth Capital Corp.

**Thursday, December 22**
(6.25 CLE Hours)

**West 25th Lofts Adaptive Re-Use: “What’s Old Is New Again”**
Thomas B. Bruce, Love Funding
Dave Sorachan, Love Funding
Andrew Mazak, Vogt Strategic Insights
Chris Smythe, Smythe Real Estate Advisors

**Fight Blight – Ohio City Infill Program**
Rose Marie L. Fiore, Morris, Laing, Evans, Brock & Kennedy, Chtd., Moderator
Gillian E. Hall, Knez Homes
Chris Garland, Assistant Planning Director, City of Cleveland
Mike McBride, Ohio City Incorporated

**Serial Sub-Tenants and Subleasing Issues: Financing**
Lori Pitzman Haas, Ulmer & Berne
Michael Cantor, Allegro Realty Advisors

**Bioremediation – From the Traditional to the Sublime**
Joseph M. Saponaro, Dinn Hochman & Potter, LLC, Moderator
John J. Fahnbender, Fahnbender Law Office
Dan Brown, Partners Environmental Consultants, Inc.

“I Should Build It, You Will Pay” Construction Claims/Coverage Issues
Michael A. Poklar, Law Offices of Michael Poklar, Moderator
Andrew J. Natale, Frantz Ward LLP
Andy Owen, Ulmer & Berne LLP

Should the Deal Be a Steal – What Does “Professionalism” Mean In a Real Estate Transaction? (1.0 Professional Conduct credit)
Michael D. Goler, Miller Goler Faeges Lapine LLP, Moderator
Frank R. DeSantis, Thompson Hine LLP
Jack S. Kluznik, Weston Hud LLP
Hon. Michael P. Donnelly, Cuyahoga County Court of Common Pleas
Hon. Dan Aaron Polster, U.S. District Court, Northern District of Ohio
Linda A. Srofisak, Thompson Hine LLP
Mark I. Wachter, Wachter Kurant LLC

**SAVE THE DATE**

International Women’s Day
**WEDNESDAY, MARCH 8**
The CMBA and its Ethics & Professionalism Committee present

Professional Conduct 2016: Sex Drugs and Rock & Roll – Video

Thursday, December 22
(9 a.m.)

Tuesday, December 27
(1 p.m.)

Friday, December 30
(9 a.m.)

CREDITS  3.50 Professional Conduct CLE

LOCATION  McDonald Hopkins, 600 Superior Avenue, East, Suite 2100, Cleveland, OH 44114

Welcome & Introductions
Kimberly M. Baga, Law Office of Kimberly M. Baga, Chair, CMBA Ethics & Professionalism Committee

Whole Lotta Trouble:  Relationships with Clients and Conflicts of Interest (Sex)
Jonathan E. Coughlan, Kegler, Brown, Hill + Ritter, Past Disciplinary Counsel for the State of Ohio

Takin’ Care of Business: Preparing Your Firm for Life’s What Ifs (What If Preparedness)
Deborah A. Coleman, Coleman Law LLC

Up in Smoke: Medical Marijuana and the Practice of Law (Drugs)
Patrick F. Haggerty, Frantz Ward LLP

Keeping it Clean: Plagiarism and Copyright Infringement (Rock & Roll)
Mark E. Avsec, Beneisch, Friedlander, Coplan & Aronoff LLP

The CMBA’s Estate Planning, Probate & Trust Law Section presents

43rd Annual Estate Planning Institute 2016 – Video

Tuesday, December 27

CREDITS  Submitted for 6.50 CLE Hours

PROGRAM  8:30 a.m. – 4:00 p.m.

Ohio Law Update
Maryann Fremion Thomas, Schneider, Smeltz, Ranney & LaFond PLL

Fiduciary Litigation – Including In Terrorem Clauses, Arbitration Clauses, and Privity Issues
Robert M. Kincaid, Jr., BakerHostetler LLP

Drafting Trusts to Enhance (or Restrict) Flexibility
Patrick J. Saccogna, Thompson Hine LLP

Case Studies in the Exercise of Trustee Discretion
Michael Barnes, Johnson Trust Company

Federal Law Update
Scott E. Swartz, Wellspring Financial Advisors

ESOPs as an Estate Planning Tool: An Introduction to Employee Stock Ownership Plans
Erica E. McGregor, Tucker Ellis LLP
Ann M. Carensani, Tucker Ellis LLP
Leslie A. Lauer, Senior Vice President - Wealth Management, UBS Wealth Management

Planning with the Ohio ABLE Act
Amanda M. Buzo, Community Fund Management Foundation

Planning for College!  What you need to know about the FAFSA and CSS Profile
Robert Durham, Director of Scholarship Services and Financial Aid, College Now Greater Cleveland
Krizie Warshawsky, Chief External Affairs Officer, College Now Greater Cleveland

Prenuptial Agreements, Treatment of Pre-Marital Assets, and Trust Interests in Divorce
Carl A. Murway, Taft Stettinius & Hollister LLP
H. William Beseth, III, Taft Stettinius & Hollister LLP

2016 William J. O’Neill Great Lakes Regional Bankruptcy Institute:
Bankruptcy Toolbox:  Do You Have What You Need?  – Video

CREDITS  Up to 13.50 CLE Hours

REGISTRATION & BREAKFAST  8:00 a.m.

SEMINAR:  8:30 a.m. - 4:15 p.m.

Wednesday, December 28
(6.75 CLE Hours)

Bankruptcy in the U.S. Supreme Court and Stern Update
Hon. Mary Ann Whipple, U.S. Bankruptcy Court, N.D. of Ohio
John A.E. Pottow, Professor, University of Michigan Law School

Recent Developments in Chapter 13:  Cases, Issues and Trends (2 Hours with one 15-minute break)
Hon. Keith M. Lundin, U.S. Bankruptcy Court, Middle District of Tennessee (retired)
Henry E. Hildebrand, III, Chapter 13 Trustee, Nashville, Tennessee

Update from the Office of the United States Trustee
Clifford White, Director, United States Trustee Program

Restructuring: Maximizing Value and the Rights of Secured Creditors (2 hours with one 15-minute break)
Hon. Alan M. Koschik, U.S. Bankruptcy Court, Northern District of Ohio, Moderator
Hon. Robert D. Drain, U.S. Bankruptcy Court, Southern District of New York
Angela M. Allen, Jenner & Block LLP
Heather Lennox, Jones Day
Michael H. Torkin, Sullivan & Cromwell LLP

Mediation: An Effective Settlement Tool
Hon. Jessica E. Price Smith, U.S. Bankruptcy Court, Northern District of Ohio
Richard G. Hardy, Ulmer & Berne LLP
Ronald H. Isroff, Isroff Mediation Services, LLC

Thursday, December 29
(6.75 CLE Hours)

The United States Consumer Financial Protection Bureau: Looking to 2016 and Beyond
Richard A. Freshwater, Thompson Hine LLP
Kelly Lipinski, McGlinchey Stafford PLLC

Case Law Update
Hon. Russ Kendig, Chief Judge, U.S. Bankruptcy Court, Northern District of Ohio
Hon. Arthur I. Harris, U.S. Bankruptcy Court, Northern District of Ohio
Hon. Jessica E. Price Smith, U.S. Bankruptcy Court, Northern District of Ohio

E-Discovery
Karol Scholz Jenson, Baker Hostetler LLP
Scott A. Kan, Squire Patton Boggs (US) LLP
Kevin F. Brady, Redgrave LLP
Timothy M. Opsitnick, General Counsel of Jutrinov Ltd

Article 9 Update
Cassandra G. Mott, Thompson & Knight LLP
Kelsey M. Toulouse, Voris, Sater, Seymour and Pease LLP
James J. White, Robert A. Sullivan Professor of Law Emeritus, University of Michigan
Disorder in the Court: Professional Conduct Live
Thursday, December 29
CREDITS 2.50 Attorney Conduct CLE Hours
REGISTRATION 12:30 p.m.
SEMINAR 1:00 – 3:45 p.m.

Disorder in the Court: An Attorney’s Guide to Judicial Misconduct
The Rules of Professional Conduct indicate that an attorney who possesses unprivileged information that a judge has violated the Rules of Judicial Conduct shall inform the appropriate authority and that it is professional misconduct for a lawyer to knowingly assist a judge in conduct that is a violation of applicable rules of judicial conduct. Therefore it is incumbent for every attorney to be familiar with the rules of Judicial Conduct and the type of conduct that is to be expected from the Bench. In this interactive presentation attorneys will gain a working knowledge of the Rules of Judicial Conduct and the type of conduct that is expected. The presentation, you will learn the seven names you never use when referring to opposing counsel.

The CMBA’s Labor and Employment Law Section presents
The 16th Annual Northern Ohio Labor & Employment Law Conference 2016 – Video
CREDITS Submitted for 12.0 CLE hours including 1 hour Professional Conduct

Friday, December 30
(7.00 CLE Hours)

Public Sector Collective Bargaining Developments: The Good, the Bad, and the Really Ugly
George S. Cristi, Zashin & Rich

State and Federal Employment Case Law Update: Cases from the U.S. Supreme Court, 6th Circuit Court of Appeals, Ohio Supreme Court, and Ohio Courts of Appeals
Christina Royer & Stuart Torch, Ehrlich, Klingshirn, Royer & Torch, LLC

Sex- and Gender-Based Discrimination in the 21st Century Workplace
Latha Srinivasan, HR Compliance, FirstEnergy

Legal Issues Involving Hiring and Employing Employees with Criminal Records
Kelly S. Lawrence, Frantz Ward LLP

Overview of the FLSA and Certifying and Decertifying FLSA Collective Actions
Chastity L. Christy & Lori M. Griffin, The Lazzaro Law Firm, LLC

In-House Panel I: The Pressing Personnel Issues Keeping You Up at Night
Moderators: Kerin Lyn Kaminiski & Karen L. Giffen, Giffen & Kaminiski, LLC
Kristin R. Erenburg, Counsel, Cleveland Clinic Foundation
Rose Fini, Chief Legal & Ethics Officer, Cleveland Metroparks
Jennifer M. Griveas, Chief Human Resources Officer & General Counsel, Eliza Jennings Senior Care Network
Michael A. Jackson, Senior Labor & Employment Counsel, The J.M. Smucker Company
Emily Smayda Kelly, General Counsel & Chief Human Resource Officer; Visting Nurse Association of Ohio

In House Panel II: Planning for What Is Ahead for Employers in 2016
Moderator: Patrick O. Peters, Jackson Lewis PC
Mark S. Floyd, Executive Vice President of Employment, DDR, Corp.
Kelly L. Hamilton, Legal Counsel, Labor & Employment, AmTrust Financial Services, Inc.
Jennifer B. Jackson, Associate Counsel, GCRTA-Legal Division
Lessie Milton Jones, Assistant General Counsel, Cleveland, Dominion East Ohio
Paul Mancino, III, Vice President, Assistant General Counsel & Deputy Compliance Officer, Medical Mutual of Ohio

Saturday, December 31
(5.00 CLE Hours)

Managing the Seismic Shift in the Upcoming FLSA Exemption Regulations: What to Expect and How to Handle Your Employees Under the New Laws
Daniel L. Messeioff, Jackson Lewis PC

Ethics of Negotiations for Labor and Employment Lawyers (1.00 Professional Conduct)
Joseph N. Gross, Benesch, Friedland, Coplan and Aronof, LLP

Arbitration and Class Action Collective Waivers
John B. Lewis, BakerHostetler, LLP

Navigating the eWorkplace: Social Media, Cyber Security, and Telework
Jonathan T. Hyman, Meyers, Roman, Friedberg & Lewis, LPA

Selected Legal Issues and Litigation Tactics Regarding Restrictive Employment Covenants
David A. Posner, BakerHostetler LLP
Bar Journal

FEATURE ARTICLE

CHARITABLE GIVING

Grab Your Legal Blender
We’re Mixing Elder Estate Planning, and Charitable Giving

BY AMANDA M. BUZO

Many elder law and special needs estate planners do not address charitable giving when working with their elderly or disabled clients. We're too busy focusing on crisis intervention, the application of the most recent transfer rules, or explaining to our client the difference between first-party and third-party special needs trusts. Estate planning attorneys who don't regularly focus on special needs planning or those new to the area are just trying to understand the complexities of elder and special needs law. Thus, many of us rarely take the time to explain the options to incorporate charitable giving because there are just too many other items to consider and is rarely the focus of clients engaged in elder or special needs planning.

Omnibus Budget Reconciliation Act of 1993
Congress, however, provided estate planners with an opportunity to combine elder, special needs, and charitable planning when it passed the Omnibus Budget Reconciliation Act of 1993 (Pub.L. 103-66), most commonly referred to as OBRA 93. OBRA 93 instituted new rules regarding Medicaid planning, including increasing the lookback period to 36 months for outright gifts and imposed a transfer penalty on Medicaid recipients who disclaimed an inheritance. (The lookback period for all transfers was later amended to 60 months by the Deficit Reduction Act of 2005.) These changes were not well received by many elder law attorneys or their clients who were in the middle of planning.

OBRA 93 did create two exceptions to the imposition of a penalty on the transfer of assets. The first, the self-settled special needs trust for a person under the age of 65 found in 42 U.S.C. 1396p(d)(4)(A), will not be discussed in this article. The second exempt trust, the self-settled pooled special needs trust, is discussed below.

You Say Tomato, I Say Tomahoe: Don’t Call the Whole Trust Off
Whether you refer to this type of trust as a pooled trust, pooled Medicaid Payback Trust, special needs trust, or d4C, it is all the same idea: a person with a disability of any age can transfer his assets to a trust for his benefit without being subject to a lookback period and without having a penalty imposed if the trust is properly drafted.

The Federal Law defining pooled trusts is relatively simple. It is the administration of the pooled and all other special needs trusts that can be rather complex, but we'll save that discussion for a future article. 42 USC 1396p(d)(4)(c), along with its Ohio counterpart located in R.C. 5163.21(F)(3), requires a pooled trust to meet the following criteria to be an exempt trust: (1) contains assets of an individual who is disabled as defined by 42 U.S.C. 1382c(a)(3); (2) is established and managed by a non-profit association; (3) for the purposes of investment and management of funds; (4) the trust pools the accounts but a separate account is maintained for each beneficiary; (5) accounts are established solely for the benefit of the individual with the disability; (6) accounts are established by the person with a disability, her parent, her grandparent, her guardian, or by a court; and (7) to the extent that the amounts remaining in the beneficiary's account upon the death of the beneficiary are not retained by the trust, the trust pays to the state from such remaining trust funds an amount equal to the total amount of medical assistance paid on behalf of the beneficiary under the state plan.

Disability Requirements
Let's review each of the criteria, albeit a little out of order. The first requirement is that the trust must contain assets of a person with a disability. While permissible, it would not be wise to transfer third-party assets to a first-party pooled special needs trust due to the Medicaid payback provision which will be discussed below.

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Federal law defines “disabled” to mean a person who is unable to engage in substantial gainful activity due to a medically determinable physical or mental impairment which can be expected to result in death or which will last for a continuous period of not less than 12 months. While a person receiving Supplemental Security Income or Social Security Disability Insurance is clearly a person with a disability, the identification of a person with a disability may not be immediately evident when the person has not applied for cash benefits or Medicaid. 42 U.S.C. 1382c(a)(3) does provide some additional insight to help a planner answer this question. It would also be appropriate to ask the pooled trust administrator when evaluating different programs what it does, if anything, to verify an applicant is a person with a disability when the beneficiary is not receiving SSI or SSDI.

**Trust Establishment**

A pooled special needs trust is currently the only type of exempt self-settled trust that can be established by the beneficiary if he or she is a competent adult. If it is not appropriate for the beneficiary to establish the trust, then the beneficiary’s parent, grandparent, or guardian may establish the trust. A pooled special needs trust may also be established by a court. Depending on state law and the policies of the trust administrator, a trust established by the beneficiary’s agent under a valid financial power of attorney may also be accepted.

**Trust Management**

A pooled trust must by established and managed by a nonprofit association for the purposes of investment and management of funds. Not all nonprofits that manage pooled trusts are the same. Some offer additional services beyond trust administration. Other pooled trusts provide tax preparation but require a separate fee. It is important to seek out the answers to administrative questions when helping a client identify whether a pooled trust is the best option.

The trust pools the accounts but a separate account is maintained for each beneficiary. This pooling of assets helps to increase the investment options, yet depending on the trust requirements, allows the nonprofit to accept very small trusts that would be unattractive to corporate trustees or financial institutions. All accounts, or sub-trusts, must be established solely for the benefit of the individual with the disability. A pooled trust’s purpose is not to circumvent the 60-month lookback and gift to the beneficiary’s loved ones.

**Distribution at the Beneficiary’s Death**

To the extent that the amounts remaining in the beneficiary’s account upon the death of the beneficiary are not retained by the trust, the trust pays to the State from such remaining trust funds an amount equal to the total amount of medical assistance paid on behalf of the beneficiary under the State plan. What does this mean? Federal law has not provided us with much guidance so the answer to this question varies depending on the state and the nonprofit. The trust agreement for our organization, Community Fund Management Foundation (CFMF), allows the person establishing the trust to allocate anything from zero to 100 percent of the remainder to CFMF or one of our partners at the beneficiary’s death. CFMF currently has partnerships with four organizations that service people with disabilities: The Jewish Federation of Cleveland, Hattie Larlham Foundation, The Arc of Ohio, and ADD. CFMF and the four nonprofits have their own spending policies, but the mission of each is to spend the funds on direct services for people with disabilities. Funds allocated to CFMF are retained in our perpetual
trust and are used to approve individual and nonprofit grant requests for things like inclusive camps, wheelchair accessible vans, therapy not covered by insurance, group trips with experienced caregivers, new equipment at group homes, or direct services for impoverished and disabled people even if they never had a CFMF trust.

Some states mandate a percentage to be retained by the nonprofit or paid to the state at the death of the beneficiary, but Ohio does not. What Ohio does require is that any funds not retained by the pooled trust must first be used repay the State of Ohio, and any other state that provided Medicaid-covered services to the beneficiary. This is true even if the Beneficiary is under the age of 55 at his or her death (unlike Medicaid Estate Recovery; see R.C. 5162.21). The funds, if any, remaining after repayment to the state(s) will be distributed per the written wishes of the person who established the Trust as designated in the trust documents. Therefore, the amount retained by the nonprofit at the death of the beneficiary depends on the terms of the pooled trust agreement and the written direction of the person who established the trust.

Conclusion
Many pooled trust administrators also offer third-party special needs trust administration to allow a grantor to establish an exempt trust funded with third-party money that is administered by an experienced nonprofit and distributed to any charity selected by the grantor at the death of the beneficiary. Thus, a first-party or third-party pooled special needs trust is a great opportunity to blend estate planning, charitable giving, and elder law even for clients who feel that their estate may be too small for their gift to make a difference, or who feel that their focus can only be on crisis planning.

Amanda M. Buzo is Executive Director of Community Fund Management Foundation and is a former special needs and elder law attorney. She enjoys discussing how CFMF is trust advisor to over 2,000 first and third-party special needs trusts as well as CFMF’s grant options. She has been a CMBA member since 2006. Please visit CFMF’s website at www.cfmf.org or contact Amanda at amanda@cfmf.org or (216) 736-4540.

A pooled special needs trust is currently the only type of exempt self-settled trust that can be established by the beneficiary if he or she is a competent adult.

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The tort of intentional interference with an expectation of an inheritance (IIEI) is one way of remedying wrongdoing by unscrupulous persons who prey upon vulnerable, sick and weak people with wealth. The tort is recognized to advance a public policy for the protection of the testator’s interest in freely disposing of his or her property. In contrast to a garden-variety will contest based on undue influence, where the contestant must establish that the free will of the testator was overborne, a tortious interference claim does not require such a proof. Rather, the focus is on the defendant’s intention: whether the defendant intended to interfere with an inheritance and acted on that intention.

What are the differences between a typical will contest and IIEI?
There are significant legal differences between an equitable will contest and the tort. The tort is an action at law and allows for compensatory and punitive damages. See, Restatement (Second) of Torts § 774B. Unlike a will contest, in many jurisdictions the elements of damage for the tort include past and future mental or emotional distress resulting from the interference. Also, if the tortfeasor-defendant is found liable, the judgment is paid from his personal assets, not those of the estate.

The tort has been exalted for supplying a vehicle to achieve the ideal of justice. Advocates of the tort point to the fact that equitable remedies such as a constructive trust and restitution based on trust instruments procured by fraud, offer no deterrent at all to the tortious conduct described in many of the IIEI complaints filed in Ohio courts. The idea of deterrence is not so much that an individual, having been held liable for a tort, would thereafter conduct himself better, it is rather the idea that all persons, recognizing potential tort liability, would tend to avoid conduct that could lead to tort liability.

Many legal commentators have observed that to allow a defendant to avoid a tort liability because there is an alternative equitable remedy available would be to allow many defendants to potentially commit “the perfect crime.” Many practitioners have observed that the need for application of tort liability is especially critical when the available equitable remedies offer no deterrent at all to the tortious conduct (i.e., where the tortfeasor, after judgment, is simply returned to the same place he was prior to his tortious conduct). For example, assume a testator-parent wishes to divide the estate equally between a son and a daughter, but the son tortiously induces the parent to make a will much more favorable to him. Perhaps this will also name the son as executor. Should his sister bring a will contest, the estate will pay the costs of defending the will, and we can assume the son will defend the will vigorously. Should the sister succeed in her contest, and have the will struck down, the tortfeasor will still collect his one-half share by intestacy or a prior will—the same inheritance he would have received had he never committed the tort.

The Deterrent Factor
Perhaps, the deterrent factor of the tort its most attractive characteristic when viewed as a vehicle to achieve the ideal of justice. Advocates of the tort point to the fact that equitable remedies such as a constructive trust and restitution based on trust instruments procured by fraud, offer no deterrent at all to the tortious conduct described in many of the IIEI complaints filed in Ohio courts. The idea of deterrence is not so much that an individual, having been held liable for a tort, would thereafter conduct himself better, it is rather the idea that all persons, recognizing potential tort liability, would tend to avoid conduct that could lead to tort liability. Many legal commentators have observed that to allow a defendant to avoid a tort liability because there is an alternative equitable remedy available would be to allow many defendants to potentially commit “the perfect crime.” Many practitioners have observed that the need for application of tort liability is especially critical when the available equitable remedies offer no deterrent at all to the tortious conduct (i.e., where the tortfeasor, after judgment, is simply returned to the same place he was prior to his tortious conduct). For example, assume a testator-parent wishes to divide the estate equally between a son and a daughter, but the son tortiously induces the parent to make a will much more favorable to him. Perhaps this will also name the son as executor. Should his sister bring a will contest, the estate will pay the costs of defending the will, and we can assume the son will defend the will vigorously. Should the sister succeed in her contest, and have the will struck down, the tortfeasor will still collect his one-half share by intestacy or a prior will—the same inheritance he would have received had he never committed the tort.

Firestone v. Galbreath
This tort was first recognized in Ohio in the 1993 Supreme Court decision Firestone v. Galbreath, 616 N.E. 2d 202, where our state’s high Court was requested to answer two questions from the Sixth Circuit: (1) Is IIEI a cognizable claim in Ohio? (2) If so, who has standing to commence such an action?

The Court answered YES to both questions and defined the elements of the tort as follows: (1) an existence of an expectancy of inheritance in the plaintiff; (2) an intentional interference by a defendant with that expectancy; (3) conduct by the defendant involving the interference which is tortious in nature; (4) a reasonable certainty that the expectancy would have been realized, but for the defendant’s interference and (5) damages.

The dissenting judges in Firestone believed the majority’s response of “yes” was too broad because “the claim of these plaintiffs is a mere expectancy or future, contingent interest.” This attenuated nature of the property interest in IIEI cases was explored recently in the case of Brown v. Ralston, 2016-Ohio-4916, an inheritance dispute involving a granddaughter who sued to recover money damages as a result of another family member’s abuse of a power of attorney. Simply stated, the family member used the grandfather’s trust as a vehicle to transfer property rights during his life away from the granddaughter (the intended beneficiary) and to the tortfeasor-family member. At the trial level, the family member defended claiming, just as the dissenting judges had opined in Firestone, that she could not interfere with the granddaughter’s expectancy of inheritance because the granddaughter’s expectancy was too attenuated—she had no present interest in the assets at the time the tortious conduct occurred. The Seventh District disagreed, holding that a claim for intentional interference with the expectancy of inheritance does not require a present interest in the property.

Is a Will Contest a Necessary Precondition to Commencing the Tort Action?
Another critical question remaining after Firestone was answered in Roll v. Edwards,
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and a claim for intentional interference with expectancy of inheritance to travel through the probate court process together, the court probate court doesn't have jurisdiction to do so. The court reasoned that the probate court can fully adjudicate the will contest without determining the essential elements of the tort action because the tort claim requires proof of elements that are not the same as the elements necessary for a prima facie will contest claim. The court feared that if both actions were allowed to proceed, plaintiffs could pursue both at the same time and potentially receive a double recovery.

The issue of adequate probate relief explored in Firestone was further developed in Grimes v. Grimes, 879 N.E.2d 247 which involved an action filed by the executor of an estate challenging the validity of the decedent's inter vivos deed transfers to his son when the father was incompetent. The complaint, filed in the general division, alleged that the defendant procured the transfers by undue influence at a time when the decedent had a deteriorated mental condition, was dependent upon the defendant for advice, was in poor health, was physically incapacitated, was susceptible to undue influence, and was of advanced age; that the defendant took advantage of the decedent's conditions and preyed upon his incompetence in obtaining the transfer of the real estate; and that the deeds were recorded after the decedent's death and that the defendant had intentionally interfered with his expected inheritance. The defendant argued that under the reasoning of Roll v. Edwards, the general division should dismiss the intentional interference claim for lack of ripeness because there was a pending unresolved probate case. The executor then filed the equivalent action in the probate division and the defendant also sought dismissal of the probate case.

After both cases were dismissed, the executor appealed since he was evidently left with no remedy. The Grimes court reversed and articulated the procedure for determining when an IIEI is ripe as a justiciable controversy. Simply stated, holding that until the executor resolved the probate action it was not certain whether he suffered damages as a result of the alleged tortious interference and thus, the individual claim for intentional interference with expectancy of inheritance was not yet ripe for judicial review. The court reasoned, as had the Roll court, that to hold otherwise would create a risk of double recovery in the intentional interference plaintiff.

The development of IIEI law in Ohio since Firestone continues to affirm the availability of a valuable weapon against elder abuse and exploitation. Further, IIEI has proven to be another option to supplement the typical probate will contest, which is frequently criticized as providing an insufficient remedy against interference with freedom of testation.

Daniel A. McGowan is an Ohio and Florida probate lawyer. Trusts and estates litigation, elder abuse, guardianship, and probate is all he does as a lawyer. He is a 1994 graduate of the Cleveland-Marshall College of Law (J.D.). Mr. McGowan is a member of the Estate Planning, Trust and Probate Law section of the Ohio State Bar Association the Estate Planning, Trust and Probate Law Section of the Cleveland Metropolitan Bar Association. Mr. McGowan is also a member of the Probate and Trust Litigation Committee of the Real Property, Property and Trust Section of the Florida Bar and is an appointed member of the Florida Probate Rules Committee. He joined the CMBA this year. He can be reached at (216) 242-6054 or dan@mcgowanlawohio.com.
Inside the New Rule 66
Must-Know Changes for Practitioners

BY DAVID SZABO

On June 1, 2015, changes to Ohio Rule of Superintendence 66 — known colloquially as Rule 66 — went into effect. Codified as Ohio Sup. R. 66.01-66.09, the changes impose substantial new responsibilities upon guardians in adult guardianships, focusing on the education and training of the guardian, as well as the guardian’s duties to the ward. They resulted primarily from the Ohio Supreme Court’s concern over the prevalence of abuse in guardian-ward relations.

The Cause for Change
The push to amend Rule 66 was prompted in large part as a response to findings of widespread abuse in guardian-ward relationships all across the country. A committee that was appointed by the Ohio Supreme Court to study the issue over the course of several years found that such abuses were occurring in Ohio. Among the abusive practices engaged in by guardians were neglect and financial exploitation. In a particularly egregious example reported by the Columbus Dispatch, one lawyer who had been appointed guardian was found to have stolen almost $50,000 total from four wards over the course of about a year by hiding assets from the court and depositing them into his own accounts. Such abuses convinced the Supreme Court of the need for more court oversight in guardian-ward relations.

Criminal Background Check
Rule 66.05 requires guardian candidates to undergo a criminal background check. An exception applies to attorneys, who may instead submit a certificate of good standing issued by the Ohio Supreme Court, containing the attorney’s disciplinary information.

Guardian Education
Rule 66.06 requires guardian candidates to undergo at least six hours of guardian fundamentals training before their appointment as guardians. Such courses are provided either by the Ohio Supreme Court or by another entity approved by the Supreme Court. The training includes information regarding the establishment of the guardianship the ongoing duties and responsibilities of guardians and record keeping and reporting duties of guardians.

Under Rule 66.07, in each succeeding year after the guardian’s appointment, the guardian must complete a three-hour continuing education course. The course must be provided by either the Ohio Supreme Court or another organization approved by the court that appointed the guardian. The court must report documentation of compliance with continuing education requirements to each probate court from which the guardian receives appointments.

Quarterly Meeting Requirement
Under Rule 66.09(F), guardians are required to meet with their wards at least four times per year. As discussed later in this article, this change reduces the availability of out-of-state residents as guardian candidates.

Annual Plan
Under Rule 66.08(G)-(H), guardians of a person must file a guardianship plan with the probate court. The plan must state the guardian’s goals for meeting the ward’s personal and financial needs.

Annual Registration for Guardians with 10 or more Wards
Guardians caring for ten or more wards must annually register with the probate court, providing all information required by the court. This information includes a fee schedule differentiating guardianship services from legal or other direct services.

Exemption from Requirements where Guardian is related to Ward
Under Rule 66.02, the probate court has discretion to exempt a guardian from complying with Sup.R. 66.01 through 66.09, provided that the guardian is related to the ward by consanguinity or affinity. To some extent, this relieves some constraint on the number of available guardians.

Criticism of the New Rule 66
The changes to Rule 66 have been met with criticism, both from those who argue that the rules are unduly burdensome, as well as those who argue that the rules do not go far enough to protect wards.

One way in which the new Rule 66 requirements may present difficulties concerns out-of-state guardians, who, as discussed previously, like in-state guardians are required under 66.09(F) to meet with their wards at least four times per year. Prior to 2012, non-Ohio residents could not serve as guardians over wards who were Ohio residents. In an amendment to O.R.C. 2109.21(C)(3), effective March 22, 2012, the General Assembly allowed for non-Ohio residents to serve as guardians of persons who are residents of Ohio.

An elderly prospective
ward, for example, might not have any in-state relations or close friends suitable to be appointed guardian. If, however, the prospective ward had children living out of state, the 2012 amendment to O.R.C. 2109.21 brought them within the range of possible candidates to be appointed guardian. The change contained in Rule 66.09, requiring four visits per year, thus eroded the flexibility that had only recently been made possible by the amended Section 2109.21.

As a result of these changes, it is possible that the pool of willing candidates for guardianship positions will shrink. This concern was articulated to the Ohio Supreme Court by Ohio judges, including some who helped to draft the rule changes, who feared that the changes might be too stringent, and have the effect of discouraging people from applying to be guardians. One particular requirement that many probate court judges found to be concerning was that the amendments make no distinction between family and non-family guardians. This is an understandable concern, since members of the ward’s family seem to be natural candidates for appointment as guardian. On the other hand, the potential for abuse at the hands of relatives may not be much less than the potential for abuse from a non-relative. This was shown to be the case in an investigation conducted by the *Columbus Dispatch*, which found “numerous examples of family members who mistreated, neglected, or stole from the relatives in their care.” In light of this evidence, holding relative guardians to the same standards as non-relatives may prove to be a wise precaution. Regardless of exactly where the truth lies on this particular issue, it should be remembered that Rule 66.02 does grant the probate court discretion to exempt family member guardians from Rule 66 requirements.

In contrast to those who criticize the changes for going too far, there are those who criticize the changes for not going far enough. As discussed in the *Columbus Dispatch*, former Mahoning County Probate Court Judge Mark Belinky was recently convicted of tampering with records in connection with his appointment as a guardian to various wards. Belinky admitted to investigators that he altered and concealed Probate Court records, and created false records, in connection with his efforts to hide evidence of thefts he was committing against his wards.

In the wake of Belinky’s conviction, some have questioned the adequacy of the new safeguards in amended Rule 66, contending that they are insufficient when it comes to recordkeeping. Some advocate for the creation of a state-wide licensing bureau for fiduciaries,
such as that created by California’s legislature. In addition, Ohio Attorney General Mike DeWine has called for further reforms, and the Attorney General’s Office has created a handbook as a guide for guardians.

Conclusion
Serious concerns exist as to the restrictive effect the new requirements in Rule 66 may have on the number of available guardians. At the same time, some wonder whether the rules are an effective response to the abuses they are meant to combat. As the new requirements in Rule 66 are still less than two years old, time has yet to tell exactly how effective they will be in improving guardian-ward relations.

David Szabo is a law clerk at The Perla Law Firm. At The Perla Law Firm, he performs legal research and drafts memoranda and briefs pertaining to estate, trust, and family law issues. He graduated from Cleveland-Marshall College of Law in May 2016. In his spare time, David enjoys following sports, studying foreign languages, and fitness training. He has been a CMBA member since 2014. He can be reached at (440) 364-7828 or Dszabo55@gmail.com.
Practical Tips for Trial Attorneys
Helping Your Client at the Sentencing Hearing

BY JUDGE JAMES L. KIMBLER (RETIRED)

When I was in law school and took criminal procedure, the focus of the course was on the adjudication process. Based on what I have seen as a trial judge, I don’t think that focus has changed. And it’s obviously important that criminal defense attorneys understand the Ohio Rules of Criminal Procedure, how to file proper pretrial motions, and how to raise constitutional issues regarding searches and seizures. But the fact of the matter is that most criminal cases are adjudicated not by a trial or by winning a pretrial motion but by the entry of a plea of guilty or no contest.

What this means is that if you do criminal defense work, most times you will be representing a defendant at a sentencing hearing. And you’ve been found guilty by a plea and not by a trial. For those defendants, the sentencing hearing is far and away the most important part of their criminal case. It is that hearing that will determine whether the defendant goes to prison, or gets probation. If the hearing is for an offense that carries a mandatory prison sentence, then the hearing will determine how long of a prison sentence that the defendant will serve.

Too often I think that attorneys feel that the judge already knows what sentence he or she is likely to impose. While this is true in many cases, it is certainly not true in all cases. If you are representing a criminal defendant at a sentencing hearing there are several things you can do to increase your client’s chances of receiving probation or a shorter rather than longer prison sentence.

First of all try to get the prosecution to agree to a joint recommendation regarding the sentence that will be imposed. While trial judges don’t have to accept such recommendations, most judges will accept them and sentence accordingly.

If the prosecution is not prepared to join in a joint recommendation regarding the sentence to be imposed, then try to get the prosecution to agree to remain silent at the sentencing hearing. If the prosecution does agree to remain silent at sentencing, keep in mind, however, that the victim or a representative of the victim still has the right to be heard at a sentencing hearing.

Do research on the judge and how that judge sentences for the offense with which your client is charged then base your advocacy on that research. Judges like to be consistent when imposing sentences. Obviously absolute consistency cannot be achieved, nor should it, because the facts of each crime are unique, but judges try to avoid handing out inconsistent sentences for the same offense when possible.

Be sure you know the law regarding sentencing. Ohio Revised Code Chapter 2929 spells out in detail the factors that judges are to use when sentencing defendants. You need to know those factors and refer to them when you are advocating on behalf of your client, whether by means of a sentencing brief or oral allocution at the sentencing hearing.

Sentencing briefs can often be a good way for a criminal defense attorney to advocate to the court his or her position regarding how a client should be sentenced. They are probably better than allocution made during sentencing because a judge can read them when he or she is not handling a call day docket.

Many judges sentence during their call days when they are handling not only sentencing hearings, but arraignments, bond hearings, probation violations, and defendants who have been picked up on a warrant. During such call days a defendant’s attorney is not going to get an unlimited amount of time to make his or her case regarding how the judge should sentence that attorney’s client.

You are much more likely to get more of the judge’s attention if you file a sentencing brief stating your position regarding sentencing. You should do so only if, however, you know that the judge is willing to accept such a brief. Therefore you should ask the court through either the judge or the judge’s support staff if the judge would be okay with your filing such a brief. Keep in mind that you must serve a copy on the prosecution and that it should be filed enough in advance of the sentencing hearing that the judge has time to read it before the hearing.

Sometimes friends and family members of the defendant want to send letters to the judge on behalf of the defendant. You should not encourage such friends and family members to send the letters directly to the judge. Rather they should be sent to your office and then you should deliver them to the judge and provide copies to the prosecution. This avoids any appearance that the defendant’s family and friends are trying to ex parte the judge. It has the further advantage of allowing you to make sure that inappropriate material doesn’t get sent to the judge.

One of the most crucial things you can do for your client is to make sure that your client interacts with the probation department in an appropriate manner. Veronica Perry is the Chief Probation Officer of the Medina County Common Pleas Court, General Division. Prior to coming to Medina County she was a supervisor for the Cuyahoga County Common Pleas Court Probation Department and a probation officer for that department. I asked her to list ten things that a criminal defense attorney should do when their clients are interacting with a probation department. Here they are:
1. Make sure your client understands where to go for the initial probation intake procedure, and if possible, personally walk the client to the probation department.
2. Explain the consequences of failing to comply to your client. Explain the benefits of complying to your client.
3. Attitude. Explain the benefits of being courteous and respectful towards the probation officer.
4. Honesty. The probation officer already knows the answer to the question/issue more often than not and he or she will be much more willing to be supportive if the client is forthcoming.
5. Discuss financial obligations, such as drug testing fees, home arrest fees, etc., with your client and if they will be a financial hardship approach the court and/or probation officer regarding the details PRIOR to your client encountering problems that may lead to an unsuccessful outcome.
6. Assure that your client thoroughly understands all the agreements he or she will sign with the probation department, such as the rules of pretrial supervision and the rules of general supervision.
7. Inform your client the importance of keeping in contact with their probation officer. Explain the value of calling the probation officer if your client cannot keep an appointment and the consequences of not complying.
8. Notify your client of the importance of complying with all treatment expectations, drug testing requirements, and the importance of maintaining sobriety. If your client is a drug addict with a severe drug addiction assist them in finding and completing a drug treatment program.
9. Inform your client that if they violate their supervision conditions to notify you immediately so that you can arrange the client’s surrender prior to the client getting arrested.
10. Explain to your client that meeting the conditions of probation and satisfying the court’s orders has great benefits. Inform your client that by demonstrating they satisfied the court’s orders and were cooperative during the probation process, they may ask the court for an early termination of probation. Most times, if all conditions have been met, the court will comply with the request.

You should also become familiar with the Ohio Risk Assessment System, most generally known as ORAS. The following institutions and organizations must use ORAS:

1. Each common pleas, municipal, or county court when it orders an assessment for sentencing or other purposes;
2. The probation departments serving those courts;
3. State and local governmental correctional institutions;
4. Private correctional institutions;
5. Community based correctional facilities;
6. The Adult Parole Authority; and
7. The Ohio Parole Board.

Seven forms, or “tools”, have been developed to implement ORAS. They are:
1. A pre-trial tool known as PAT;
2. A community supervision screening tool known as CSST;
3. A community supervision tool known as CAT;
4. A prison screening tool known as PST;
5. A prison intake tool known as PIT;
6. A re-entry tool known as RT; and
7. A supplemental re-entry tool known as SRT.

The Ohio Risk Assessment System is used by probation departments and the DRC to determine what programs are offered to what defendants. For example, low-risk offenders are not supposed to be sent to a community-based correctional facility and, ideally, only high-risk offenders would be sent to such facilities, although there are situations
in which moderate-risk offenders will be accepted into such facilities. Clearly if you are representing a criminal defendant who is being sentenced ORAS and its tools will be impacting greatly on what happens to your client. Therefore you need to know how it works and how your client can improve his or her score on ORAS.

What I would like for you to take away from this article is that a sentencing hearing is probably from your client’s perspective one of the most important events in his or her life. Your clients needs a skillful advocate at that hearing and your goal is to be that advocate.

Judge James L. Kimbler (Retired) served as Wadsworth Municipal Court Judge from 1986 to 1997 and as Medina County Common Pleas Judge from 1997 to 2015. During that time he conducted over 530 jury trials and hundreds of non-jury trials and hearings. He is the author of Practical Tips for Trial Attorneys: A Conversation with Judge James L. Kimbler, (Retired), published by Sigel Press. He joined the CMBA this year. He can be reached at (330) 322-6737 or jkimbler@gmail.com.
### December

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<tr>
<th>MONDAY</th>
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| 20     | Federal Court Training Video – 1 p.m.  
Crisis Management CLE – 9 a.m.  
Estate Planning, Probate & Trust Law Section  
Insurance Law Section  
Membership Committee Mtg. | RELI Video CLE – 8:30 a.m.  
O’Neill Bankruptcy Institute Video – 8:30 a.m. | RELI Video CLE – 8:30 a.m.  
Professional Conduct Sex, Drugs & Rock ’n’ Roll Video – 9 a.m.  
Court Rules Committee Mtg. | Office Closed |
| 21     |         |           |          |        |
| 22     |         |           |          |        |
| 23     |         |           |          |        |
| 26     | Office Closed |         |          |        |
| 27     | Estate Planning Institute Video CLE – 8:30 a.m.  
Professional Conduct Sex, Drugs & Rock ’n’ Roll Video – 1 p.m. | O’Neill Bankruptcy Institute Video – 8:30 a.m. | O’Neill Bankruptcy Institute Video – 8:30 a.m.  
Stokes Scholars Alumni Holiday Luncheon  
Disorder in the Court – 1 p.m. | Labor & Employment Law Conference Video – 8:30 a.m.  
Professional Conduct Sex, Drugs & Rock ’n’ Roll Video – 9 a.m. |
| 28     |         |           |          |        |
| 29     |         |           |          |        |
| 30     |         |           |          |        |
| 31     |         |           |          |        |

### January

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| 3      | Office Closed  
CMBF Executive Committee Mtg. – 8:15 a.m.  
Grievance Committee Mtg. |         |          |        |
| 4      |         |          |          |        |
| 5      |         |          |          |        |
| 6      |         |           |          |        |
| 9      | CMBF Board of Trustees Mtg. |         |          |        |
| 10     | ADR Section Mtg.  
Ohio Mock Trial Competition Volunteer Orientation |         |          |        |
| 11     |         |          |          |        |
| 12     | PLI – 8:30 a.m.  
CMBA Executive Committee Mtg.  
Lawyers Mental Health & Wellness Committee Mtg.  
Stokes Scholars Mtg.  
UPL Committee Mtg.  
VLA Committee Mtg. | PLI – 8:30 a.m.  
Ethics Committee Mtg.  
Real Estate Law Section Lunch |          |        |
| 13     |         |          |          |        |
| 16     | Office Closed |         |          |        |
| 17     | Estate Planning, Probate & Trust Law Section Lunch & CLE  
Grievance Committee Mtg.  
Insurance Law Section Mtg. |         |          |        |
| 18     |         |          |          |        |
| 19     |         |          |          |        |
| 20     |         |          |          |        |
| 23     |         |           |          |        |
| 24     |         |           |          |        |
| 25     |         |           |          |        |
| 26     | PLI – 8:30 a.m.  
3Rs Committee Mtg. |         |          |        |
| 27     |         |           |          |        |

**Events:**
- **December 19:** Federal Court Training Video – 1 p.m.
- **December 20:** Crisis Management CLE – 9 a.m.
- **December 21:** Estate Planning, Probate & Trust Law Section  
Insurance Law Section  
Membership Committee Mtg.

**January 2:** Office Closed

**January 3:** CMBF Executive Committee Mtg. – 8:15 a.m.

**January 4:**
- **January 5:**
  - WIL Section Mtg.
  - YLS Council Mtg.
  - Movie Night – 6 p.m.

**January 6:**
- **January 9:**
  - CMBF Board of Trustees Mtg.

**January 10:**
- **January 11:**
  - ADR Section Mtg.
  - Ohio Mock Trial Competition Volunteer Orientation
- **January 12:**
  - PLI – 8:30 a.m.
  - CMBA Executive Committee Mtg.
  - Lawyers Mental Health & Wellness Committee Mtg.
  - Stokes Scholars Mtg.
  - UPL Committee Mtg.
  - VLA Committee Mtg.

**January 13:**
- **January 14:**
  - PLI – 8:30 a.m.
  - Section & Committee Leadership Mtg. – 8:30 a.m.
  - Pro Se Divorce Clinic – 10 a.m. (Cuyahoga County Courthouse)
  - Pro Se Plus – 1 p.m. (Cuyahoga County Courthouse)

**January 16:**
- **January 17:**
  - Estate Planning, Probate & Trust Law Section Lunch & CLE  
  - Grievance Committee Mtg.  
  - Insurance Law Section Mtg.

**January 18:**
- **January 19:**
  - Family Law Section Lunch & CLE
  - Anatomy of Justice Presentation – 4:30 p.m.

**January 20:**
- **January 21:**
  - PLI – 8:30 a.m.
  - Ohio Mock Trial
  - Cuyahoga District Competition – 11:30 a.m. (Justice Center & Cuyahoga County Courthouse)

**January 23:**
- **January 24:**
- **January 25:**
  - PLI – 8:30 a.m.
  - Court Rules Committee Mtg.
  - Small & Solo Section Mtg. (Aladdin’s in Independence)
  - Bankruptcy/VLA Joint Event – 5 p.m. (Cleveland Public Theatre at the Old Church)
  - Destination CLE (Singer Island, FL)

**January 26:**
- **January 27:**
  - Destination CLE (Singer Island, FL)
SAVE THE DATE
Please join us for our 16th Annual Halloween Run for Justice on Saturday, October 28, 2017.
On a picture perfect fall morning, a crowd of more than 700 runners, walkers, friends and family gathered at Burke Lakefront Airport for the Cleveland Metropolitan Bar Foundation’s 15th Annual Halloween Run for Justice. The Cavs Dance Team and Scream Team pumped up our runners and walkers, while a DJ, balloon artist and bounce house provided entertainment for the whole family. We awarded some very special prizes donated by both the Cavs and Browns to those wearing cool costumes displaying our aviation theme, Cavs spirit and best group costumes.

Many photo ops were had with Moondog and Mayor Jackson, before they kicked off our races! Our new and exciting downtown courses were also a hit! All participants experienced great views of downtown Cleveland throughout the morning.

Through the generosity of our event sponsors and participants, we raised over $45,000. All event proceeds are used by the CMBF to fund our many “Lawyers Giving Back” pro bono and public service programs, including The 3Rs, that are making a positive difference in our community.

It takes a fantastic team to put together a successful special event. We offer many thanks to our 2016 event “Dream Team”:

- Jason Hillman, Heather Cox, Emily Smith and the Cleveland Cavaliers for their commitment and enthusiastic participation
- Mayor Frank Jackson for continuing to be our honorary race starter
- CMBF’s Halloween Run Committee, including Pat Krebs, Jack Kluznik, Drew Parobek, Dennis Lansdowne and co-chairs Jon Leiken, Matt Secrist and Bart Bixenstine
- Hermes Sports and Events-Cleveland
- Our race day volunteers, and CMBA staff and their families and friends who staffed the event both on the course and at Burke Lakefront Airport

Visit the CMBF on Facebook to enjoy more event photos. For run results, visit HermesCleveland.com.
The Gift That Keeps on Giving

Join the CMBA Lawyer Referral Service (LRS) by December 31, 2016 and receive the online Enhanced Profile free for six months.

- Perfect for the solo/small firm or any entrepreneurial attorney
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Contact LRS Coordinator Katie Donovan Onders at (216) 696-3525 x5002 or konders@clemetrobar.org.

Mention Promo Code HOLIDAY to receive this limited-time offer.

This holiday season, GIVE the gift of mentorship.

Your year-end gift to the CMBF will support our partnership programs in the Cleveland and East Cleveland city schools.

Help us change lives, one student at a time.

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Lawyers Giving Back

Cleveland Metropolitan Bar Association

Lawyers Giving Back

Cleveland Metropolitan Bar Foundation
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**Office Space/Sharing**

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**55 Public Square Building** – Large corner office, 17th floor; Beautiful Lake Views, Secretary Space Available, Call Jim or Kevin at (216) 696-0600.

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**Downtown Cleveland** – Rockefeller Bldg. @ W. 6th & Superior; Exceptional office space, exceptional view. All window space, no interior offices. Contact Ben Cappadora or Therese Manos at (216) 696-3929.

**IMG Center** – E. 9th and St. Clair – Office space available in suite with several other attorneys. Telephone, receptionist, fax; copier; secretarial available. Referrals possible. Contact Ty Fazio at (216) 589-5622.

**Leader Building** – Office space available in elegant suite with several other attorneys, receptionist, optional secretarial space, library/conference room, fax, copier; telephone system, kitchen. (216) 861-1070 for information.

**Superior Building** – Offices available in professionally decorated suite. Congenial environment with possible referrals. Will also consider barter arrangement for younger attorney seeking to establish own practice. Jack Abel or Lori Zocolo at (216) 621-6138.

**Terminal Tower** – Law offices available in prime location with reception area, secretarial space, conference room, copier; fax and kitchen. Reasonable rent. Call (216) 241-2022.

**Unique Cleveland Warehouse – District** Executive and Associate Offices with available full services, amenities, and referrals. Convenient to courthouses, restaurants, and parking. Call Pam MacAdams (216) 621-4244.

### Suburbs – East


**Beachwood** – Single office. New. Nice. Fair price and possible case sharing. (216) 244-3423.

**Beachwood** – Green Road near Chagrin. Prime office space. Also small to large office suites in Class A building. Receptionist, Westlaw, conference room, office furniture included. Up to 6 offices available. $500 – $750 per office inclusive. Possible legal referrals. (216) 514-6400, ext. 324.

**Beachwood** – Office for lease, either fully furnished or vacant (216) 856-5600.

**Beachwood** – In gorgeous suite on Chagrin. Copier; fax, conference room and other amenities provided. Possible litigation referrals. Contact Craig W. Elman. (216) 514-4981.

**Beachwood** – LaPlace Mall, corner of Cedar and Richmond near Beachwood Place and Legacy Village. Upper level, sunny office space available with the usual amenities. Separate area for assistant. Free underground parking. Call (216) 292-4666 or email lmilaw@sbcglobal.net.

**Bedford** – Law Offices available with conference room/library, kitchen, receptionist, and mentoring from C|M grad with 40+ years legal experience. (440) 439-5959.

**Chagrin Falls** – Furnished office available with other attorneys in eastside law firm. Chagrin Falls location with parking, $500/month includes office, WiFi, kitchen and conference room. Contact lawfirmchagrinfalls@gmail.com.

**Highland Heights** – Fantastic offices available. Includes receptionist, waiting area, conference room, kitchen, phone, printer/copier/fax, Internet. Space available for paralegal/secretary. Contact Annette at (440) 720-0379 or asamber@hendersonschmidlin.com.

**Mayfield Heights** – Beautiful office space available with conference room, receptionist, all necessary law firm amenities, complementary practices. Rent negotiable. (440) 473-5262.

**Mentor** – Two offices available at Carrabine & Reardon. Expense sharing arrangement is negotiable. Great location! Contact Jim Carrabine at (440) 974-9911.

### Suburbs – South

**Brecksville** – Conference room and mailing services available in the Ganley Building for $50 or $150 per month. Possible legal referrals. (440) 526-6411, ask for Laurie.

**Independence** – Lawyers have office(s) with shared conference room, receptionist, copier, kitchen. $500/mo. Possibility of sharing support staff. Rockside Road. (216) 236-2400.

**Parma/North Royalton** – Office spaces in modern suite available now. Contact Paul T. Kirner at (440) 884-4300.

**Seven Hills** – Law office for rent – Rockside Road, Seven Hills Corner office in prime location with Internet, copy, fax, scanner, telephone, receptionist. Two conference rooms. $1,000 per month. Call Anthony at (216) 401-7763.

### Suburbs – West

**Avon** – New office space with multiple professionals. Great for networking. Desirable location across from Avon Commons on Detroit Road. Many included amenities. Contact Doug; (440) 937-1551.

**Fairview Park Office Space** – Beautifully remodeled. Many amenities included. As low as $475 per month. Call (440) 895-1234 to schedule a visit.

### Services


**Business Appraiser/Forensic Accounting** – For shareholder disputes, domestic relations, ADR, estate planning, and probate – Terri Lastovka, CPA, JD, ASA – (216) 661-6626 – www.valueohio.com

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Experienced Process Server – Super competitive prices – flat rate $50/address within Cuyahoga County. First attempt within 24 hours. Pente Legal Solutions (216) 548-7608 or lisa.vaccariello@pentellc.com


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New Associations & Promotions

Runizen Weisman Co., Ltd is pleased to announce that David S. Michel has joined the firm on an OF Counsel basis, where he will continue to focus his practice on representing individuals and families who have suffered an injury or loss as he has done for the past 32 years.

Matthew J. McCracken joins Weston Hurd LLP as a Partner. He provides strategic analysis, negotiation and drafting support to lenders, small to medium-sized businesses, and individuals in a wide array of business-related matters.

Steven L. Wasserman joins Weston Hurd as a Partner. He focuses his practice on real estate, banking and business law.

Meyers, Roman, Friedberg & Lewis Continues to expand Depth and Scope of Capabilities with Addition of three Attorneys: Aaron M. Minc, OF Counsel, is a nationally recognized Internet defamation attorney who works at the technological forefront of removing damaging content from the Internet, tackling cyber-attacks, and uncovering the identity of anonymous Internet users who post defamatory content. T. Kinsey McInturf, an Associate in the firm’s Commercial & Civil Litigation and Construction Practice Groups, joins Meyers Roman after spending his initial years of practice with an Akron-area law firm. Grace M. Miclot, an Associate with the Firm’s Divorce & Family Law Practice Group, joins the Firm after her tenure as an intern and staff attorney for several Ohio and Pennsylvania family court judges.

Honors

The Ohio Civil Rights Commission along with sponsors Wright State University, Honda of America Manufacturing, Inc. and PNC hosted the Eighth Annual Ohio Civil Rights Hall of Fame induction ceremony. Among the 2016 Ohio Civil Rights Hall of Fame honorees was Judge Jean Murrell Capers – Trailblazer and Public Servant.

The following Rolf Goffman Martin Lang LLP attorneys are listed in The Best Lawyers in America: Banking and Finance Law. Richard D. Fiktus, Health Care Law; Ira S. Goffman, Paul A. Lang, Aric D. Martin, Carol Rolf, and Labor Law – Management: Robert C. Pivonka II.


Fisher Phillips LLP has been selected for the 2017 Best Law Firms by U.S. News – Best Lawyers®, receiving “Tier 1” rankings for its Employment and Labor Law Practices, as well as its Labor and Employment Litigation Practice. Additionally, the firm’s Cleveland office received “Metropolitan Tier 1” rankings for Employment Law and Labor Law.


Roetzel & Andress is pleased to share that the Firm has been ranked in 2017 “Best Law Firms” again this year by U.S. News & World Report and Best Lawyers®. The Firm was ranked nationally in six practice areas and regionally in 35 practice areas. National rankings were awarded in Commercial Litigation, Financial Services Regulation Law, Litigation – Construction, Real Estate Law, Transportation Law, and Land Use & Zoning Law. Roetzel’s Cleveland office earned a Metropolitan Tier 1 ranking in Litigation – Securities and additional tiered rankings in: Banking and Finance Law, Bankruptcy and Creditor Debtor Rights / Insolvency and Reorganization Law, Commercial Litigation, Corporate Law, Financial Services Regulation Law, Litigation – Antitrust, Medical Malpractice Law – Defendants, Product Liability Litigation – Defendants, and Workers’ Compensation Law – Employers.

Judge David Matia and Judge Joan Synenberg were honored with the Attorney General’s Award, the highest honor given by the Justice Department. It’s for their roles on the U.S. Attorney’s Heroin and Opioid Task Force.

E.V. Bishoff Company is happy to announce the Superior Building at 815 Superior Ave. in downtown Cleveland will undergo renovations to offer a new Micro Data Center geared toward the mid-size business. The new space will offer sizes of 1000SF to 4500SF of personalized data center caged space.

The Cleveland office of Thrasher, Dinsmore & Dolan is pleased to announce it is relocating from its current office on W. 6th Street to a larger office. The firm will be occupying Suite 412 at 111 Superior Avenue, Cleveland, Ohio 44114. The office phone number (216-255-5431) and fax number (216-255-5450) will remain the same. The firm is excited about this expansion and is looking forward to continuing to serve its current clients as well as welcome new clients to its new location!
SAVE THE DATE
MUSIC BOX SUPPER CLUB
SATURDAY, FEBRUARY 11